Supreme Court, U.S.
FILED
APR 13 1987
JOSEPH F. SPANIOL, JR.
CLERK

NO._____

IN THE

Supreme Court of the United States

OCTOBER TERM, 1986

Alfonza Darnell, et. al.,
Petitioner,

v.

City of Jasper a Municipal Corporation, et. al.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH DISTRICT

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QUESTIONS

Judge strayed from the standards set in Racial Discrimination Cases, ignored E.E.O.C. Findings of Facts and violated at least 3 canons of the Code of Judicial Conduct For United States Judges, Attorneys for both Plaintiff and Defendants violated at least 5 canons each and all of them named aboved LIED on me. The Defendants willfully deceived the Court and acted in "Bad Faith" and Participated in Fraud against Plaintiff along with ALL of the others named above. Do I have the right to see the "Pig in a Poke" before I buy him?

1. Under these circumstances can Petitioner, be Denied his Constitutional and Statutory Rights due also to Professional Ethics and / or Attorney-Judge Relations, Discrimination and Fraud?

    a. Be Denied Job and Actual Damages as well as other damages by District and Appeal Courts? §§ 1981 & 1983

2. Under these circumstances, Is my case moot because of me not getting an attorney or tendering money received in settlement I never approved?

    a. This was possible because The Integrity and Impartiality of the Judiciary and Legal Profession is very Questionable.

    b. I am not a lawyer, yet I cannot make a lawyer represent me.

3. There is a Substantial Public Interest in When will the Judidiary set a rigid standard for Disciplining Judges and Attorney and Return our People's Conviction in our Judiciary?

    a. Has the Supreme Court ever been asked the question about Allowing the Breeding of Partial-Judges without Integrity or Backbone?

        (1) In allowing that: Did the Supreme Court err?

LIST OF PARTIES

Ghema Darnell
Alfonza Darnell
Carlen H. Darnell
Natalie Nicole Darnell
Narissa Ann Darnell
Shelby Solomon Darnell
Alfonza Darnell, Jr.
Carl Darnell
Unborn Fetus
PARTIES FOR PETITIONERS

Judge E. B. Haltom, Jr.
Law Clerk
Court Clerk
Atty. Robert L. Wiggins, Jr.
Atty. C. Michael Quinn
Sec. Diane Jernigan
Atty. J.K. Selman
Atty. T.K. Selman
Atty. M. Savage
Mayor Penn Woods
Councilman Paul McLaughlin
Councilman Ellis Haynes
Councilman Paul Brignet
Councilman Bill Trotter
Councilman Myers
Congressman Tom Bevil
James B. Vincent

Marshall Durbin Co. and William Ashenfelter
Betty Simmons
Chief Joe Filyaw
Sadie Thomas, Chairman Civil Services Bd.
Ex Mayors Nicholson & Brown
Ex-Chief Gant
PARTIES FOR RESPONDENTS

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Alfonza Darnell on behalf of himself and others similarly situated, hereby petition for a writ of certiorari to enable this Court to review the judgement of the United States Court of Appeals for the Eleventh Circuit in *Darnell, et al. v. City of Jasper, Alabama, et al.*, C.A. No. 86-7041, entered on January 12, 1987.

OPINIONS BELOW

The District Court's findings of fact and conclusions of law and order are unreported; they are summarily reprinted in the Main Appendix for this petition as Appendix A (9-10). The Court of Appeals first opinion is reported at 730 F.2d 653 and is partially reprinted as Appendix A (6-8). The District Court Order after the Appeal's Court remand is unreported; it is reprinted as Appendix A (2-5). The Opinions of the final two Court of Appeals judgements are unreported; they are reprinted as Appendix A (1-2).

JURISDICTION

The Court of Appeals entered judgement on November 19, 1986. A timely petition for rehearing was denied on January 12, 1987; they are partially reprinted as Appendix A (1a-2a). This Court has jurisdiction to review the judgement of the Eleventh Circuit under 28 U.S.C. §1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

Amendments 1, 6 (construed by 9), 7, 9 and 14. *Partially reprinted in Petition's appendix.)* and Preamble

STATUTORY PROVISIONS INVOLVED

42 U.S.C. §2000e-et al., 42 U.S.C. §§ 1981, 1983, 1985, 1986 and 1988. *Partially reprinted in petition's appendix.*

Code of Professional Responsibility of the Alabama State Bar. *Partially reprinted in petition's appendix.*

Part I. Code of Judicial Conduct for United States Judges. *Partially reprinted in Petition's appendix.*

LEGAL EXCERPT'S INVOLVED

A. Attorneys at Law, 7 Am Jur 2d
B. Fraud and Deceit, 37 Am Jur 2d
A & B are both in petition (ptn) app.

PURPOSE FOR WRITING

My name is Alfonza Darnell and I am writing this Final cry to each of you for help against the Insidious Acts of Racial Discrimination the City of Jasper has bestowed on me. Most of you locally were contacted between 1974-1978. However, it seems as if no one wished to get involved during that Era of time. Now time is of the essence, my next step to appeal for Relief is to Our Honorable Supreme Court of the United States. Is that Necessary? Our Civil Service Board was not named in this current Suit at Law, but the Civil Service Board has the Authority to enter this situation because the members were appointed by our Governor and that the Civil Service Act introduced by Congressman Tom Bevill in 1965 spells out the duties and powers of the Board.

STATEMENT OF SITUATION OR CASE -

1. 1971 I asked for a Policeman Job by word of mouth.

2. 1973 I asked for a Policeman Job by written application. I did inquire in between those time mentioned #1 -2.

3. 1974 I was told that I had been denied job with Jasper Police Department because:

a. I was plotting to kill Policeman;
b. Troublemaker;
c. Collecting Money;
d. Bootlegging;
e. No Good;
f. Part of a Liberation Movement; and
g. Not Honest nor Trustworthy.

I filed Discrimination charges against City of Jasper with the Equal Employment Opportunity Commission in Birmingham. They found in my favor but our City Officials REFUSED to Negotiate or admit they had Discriminated against me. I was given a Right to Sue Letter by E.E.O.C....I initiated Legal Proceedings.

4. 1982 Judge E. B. Halton, Jr., tried this case in my favor awarding Attorney fees, and stating that I was not entitled to Backpay, a Job, nor any other benefits. The Judge also put in the Court records that I had not contacted anyone for help in this Discrimination Matter since I filed a formal complaint with E.E.O.C. which was a Lie. Apparently I, along with Attorney Robert L. Wigging, Jr., and Attorney Morris W. Savage, missed that in court or they are in Contempt of Court for not correcting me (IF I SAID THAT in Which I Don't Remember Saying) or correcting the Judge before or after the fact it was written into Law Books. Attorneys Wiggins, C. Michael Quinn and Morris Savage had at least one copy of the Papers I wrote during a Coal Mine layoff between 1977 and 1978 long before We ever went to Judge Haltom's Court.

Those Papers without a Doubt proves that I went far beyond that which Judge Haltom implied, Why I contacted most of Jasper's so-called Leading Citizens for help in this Discrimination Matter, but I received NO HELP at ALL. Those papers also go deep enough to shed light on Attorney J. Selman's statement made in his Brief in response to my Brief filed 5/30/86. Quote from Atty. Selman's Brief: "The matters presented by Mr. Darnell are a rehash or restatement of his contentions that he has been discriminated against not only by the City of Jasper, Alabama, but numerous other persons he has come in contact with during his adult life." *See Papers in Appendix; Also*

see City's Brief, 2nd sentence, page 13.
We appealed that 1982 Decision.

5. April 23, 1984 The Eleventh Circuit Court of Appeals ruled that the Judge was in Err (legally Wrong) for not allowing me to take the Jasper Civil Service Test to further meet the Qualifications for a job with J.P.D. and if I Passed be offered a Job with Backpay and other Relief was at District Court's Discretion.They did give me a test on 6/27/84 and Thanks to the Lord I Passed, had I not All of Those years of Fighting would have been in vain and the SICK Part is that E.E.O.C. had pointed out that there were 3 White People whose name appeared on the ELIGIBILITY ROSTER FOR POLICE PERSONNEL who HAD NOT TAKEN the CIVIL SERVICE EXAM. What Injustice it would have been because my Attorneys and the City's Attorneys allowed Judge Halton to put Information in his FACTS and CONCLUSIONS of Law which they knew was in Error or denotes some of the beginning visions of Conspiracy which has Viciously and Most Intentionally Matured Into Intentional Actional FRAUD. The City Officials as well as I were aware of these Erroneous Acts too before and/or after the fact they were done. *See E.E.O.C. Reports in appendix; also see Judge's Fact & Conclusions of Law.*

6. June 15, 1984 Plaintiff's Attorneys asked for the appointment of a U.S. Magistrate as a Special Master. Motion was denied June 18, 1984.

7. July 3, 1984 Plaintiff's Attorneys made a Motion for Judgement in my Favor. It was denied. Plaintiff's Attorneys made Certain Request for the Production of Documents by Defendant City of Jasper. Under Federal Fules of Civil Procedures the City had 30 days to Produce those Specific Documents . City failed to Produce. Judge could have put the Defendant City in Contempt of Court.

8. August 15, 1984 Plaintiff's Attorneys Motioned the Court to Compel Defendant City of Jasper to Produce Documents which had been respectfully Requested under the Federal Rules. It was granted 8/22/84.

9. October 9, 1984 Attorney Savage entered Motion to Withdraw as Attorney for Defendant City of Jasper. Denied, but Jerry K. Selman appeared as City Attorney 11/1/84.

10. October 16, 1984 Plaintiff's Attorneys filed for Sanctions against Defendants.

11. April 3, 1985 Judge Halton Ordered that in response to Plaintiff's Motion for Sanctions (October 16, 1984) that a SHOW CAUSE hearing is scheduled for April 17, 1985, at 2:00 p.m. in Birmingham at which time and place Mayor of City of Jasper, Alabama; and City Councilman Billy Trotter, Thomas Myers, Ellis Haynes, Paul McLaughlin and Paul Brignet in the respective official capacities as Member of the City Council of the City of Jasper shall each PERSONALLY APPEAR and SHOW CAUSE why they should not be held in contempt; further that the October 9, 1984, motion of Morris Savage to withdraw is denied.

The Entire Contents of that 4/3/85 Order appear to Alfonza Darnell as a Genuine Fear or Weakness or Racial Prejudice on behalf of Judge Haltom. It is too APOLOGETIC TO THE CITY OF JASPER when they from the very Beginning of this long insuing matter have been Hostile not only to E.E.O.C. (A Federal Entity set up to help Rectify Discriminatory Acts) but, also to my Attorneys and the Federal Court of the United States.

*"Attorney Morris Savage is DRAFTED by the Court to remain in this case as lead counsel for the defendant municipality until the case is finally terminated." This is a sample of the Judge's POWER to make and carry his own Motion accordingly to his Discretion, though it seems to be to the City's Advantage! I'm the VICTIM! Why haven't just one of the Federal Judges made an Order tailored more toward That which is JUST and FAIR. This Order is Clearly Pro-Defendants. "One hundred ninety-two (192) days have elapsed since the entry of this United States District Court's August 22, 1984 Order hereinabove referred to." ERROR: There had been 224 days and not 192 days also KEEP IN MIND the days from 7/3/84 - 8/22/84 = 50 days now going forward the Defendants surrendered the 7/3/84 Requested Information on 4/11/85 therefore 4/3/85 - 4/11/85 - 8 days...224 + 50 + 8 days= 282 days the District Court allowed the City of Jasper to Respond to a Federal Court Order WITH NO PENALTY. Compare that with the 12/17/85 District Court Order wherein Judge Haltom gave me, Alfonza Darnell, 5 days to accept or Reject a Job Offer ...5 days before Christmas wherein Judge Refused to allow me the Opportunity to see his Court Order in writing and yet I was to make a decision of such magnitude having 5 children, been on present job for 12 years making over 170% more money per-week. Since I could not adequately scrutinize an Oral talk I tried without success to get something in writing and those 5 days were gone and so were my chances to become a Jasper Policeman. Compare this with power the Judge Flexed not Allowing Atty. Savage to resign as City's Counsel *See 4/3/85 Order in Appendix.*

12. April 16, 1985 Judge Halton ORDERED that the Show Cause Hearing scheduled for April 17, 1985, is CONTINUED and RE-SET for Thursday, May 2, 1985, at 5:00 p.m. on the 3rd Floor of the United States District Court in Birmingham, Alabama; PLAINTIFFS and DEFENDANTS are Requested to have a Conference on Settlement within 30 days from date hereof.

Alfonza Darnell was never told about this Meeting Requesting my Presence. City Attorney stated in his brief in response to my brief filed May 30, 1986, that: "Mr. Darnell was Welcome and Invited to Each and All Settlement Conferences in the final stages in this matter...pg. 7 - 1st para." Page 10 last 3 lines-" On November 25, 1985 the above described conference/hearing took place. All interested parties were either invited or ordered to attend."

13. May 2, 1985 Judge Haltom ORDERED "that the Show Cause Hearing is CONTINUED to be reset" (I assume Infinitely Re-Set). *see 5/2/85 Order and note in appendix.*

Note: This was so important that the Judge had his staff to Telephone both parties Counsels for them to ORALLY Agree to Continuance 5/1/85 by S.M. or Sidney Mosley. *Refer and compare to Plaintiff's letter dated 12/24/85.*

14. According to letter my Attorney wrote to Judge Haltom dated 7/1/85 it states that..."we have submitted a full settlement proposal to the defendant in a letter dated May 29, 1985, to the defendant's attorneys."

Alfonza Darnell has never had privilege to see this full setttlement proposal letter. Furthermore, this letter is not a part of this Honorable Court Records. To my limited knowledge Judge Haltom is STILL YET TO SEE THAT PROPOSAL.

I did not give my Attorneys Special Authority to Compromise or Settle my Cause of Action. ANYONE who has known me personally during 2-3 different days of short or long discussions would KNOW that that is in NO WAY INDICATIVE of MY CHARACTER. *See Plaintiff's partial Auto-Biography in Appendix.*

15. Sometime in between 8/85 and 9/85 my Attorney(s) mentioned some things about a settlement which I most Vehemently Objected to the Terms and told him I rather take my chances in Court if that was the Best Offer the City could come up with. *See City's Attorney letter dated 9/28/85.; also see #17 below.*

16. Sometime in between 9/85 and 11/85 my Attorney(s) told me Judge Haltom had made the settlement. Then I just shut up my mouth after I stated "I will not Accept nor Reject anything until Judge Haltom put in writing the terms of his Settlement or Order with his signature on it; and You (Attorney Robert L. Wiggins, Jr.) put in writing that you had done your Best for me and that I (Alfonza Darnell) was not Entitled to no other benefits." *See Errors Section in Petition at 12A.*

17. September 28, 1985 Attorney Selman wrote letter to my Attorney Wiggins, a Copy was sent to Judge Haltom - and filed. Excerpt's from letter, "...we had the Alfonza Darnell case settled for a figure of $84,149.15 which consisted of $40,000 for your attorney fee plus the back wages for Darnell with interest...If you're having difficulty with Mr. Darnell or whatever the problem might be, please let me know..."

Surely, this implies that he, Attorney J. Selman knows definitely that something is not RIGHT and...so Does Judge Halton... *See 9/28/85 letter in appendix.*

18. October 14, 1985 Attorney J. Selman wrote another letter to my Attorney, a Copy was sent to Judge Haltom. Excerpts from letter..."In light off the delicacy of this matter, I would like to propose this suggestion; namely, that we submit to Judge Haltom that we have settled the monetary issues including attorney fees for $84,149.15 but that we have been unable to resolve the issues of placing Mr. Darnell on the Police force and would like to request his guidance in same. I would think it would be good to hold an informal hearing in the Judge's chambers wherein Judge Haltom could approve our settlement and order the City to hire Mr. Darnell to the appropriate position with the Police Department." "...full settlement..."Quote from Attorney Selman brief, page 7, top line, "Mr. Darnell seems to say that his lawyers, the City's Lawyers, and the Judge held secret meetings and sold him out. Of course, this is simply not true." *See Atty. Selman's brief and letter with its MOST IMPROPER scribblings on its body (sent to the Judge in that form).*

Under the circumstances those informal meetings as far as I am concerned were indeed secret.

19. November 16, 1985 Attorney Selman wrote another letter. It was to Judge E. B. Halton, Jr. Excerpt's from letter..."Bob Wiggins and I have settled this case for the total case sum of $84,149.15." "...There is still the question remaining of the City being ordered to put Mr. Darnell on the police force. **The City Counsel would prefer that it be done by Court Order as opposed to consent decree..."** Copy sent to Atty. Wiggins.

20. November 18, 1985 District Court Mandated Counsels of record for the parties are directed to be personally present at the Jasper Federal Court House 11/25/85. However, in letter dated 12/5/85, Attorney Jerry Selman wrote to Judge which stated in part "Enclosed is a copy of a letter Ms. Betty Simmons (who testified before you on 11/25/85)". The contents and purpose of that letter and the attached letter goes contrary to the "Make Whole" and "Make Posssible the fashioning of the most complete Relief Possible" Provisions of Title VII, if used. It was used, thus the District Court was in ERR.

21. December 17, 1985 Order was never given to me. I asked the Court, my Attorneys and Mayor Woods for a copy and was denied. I Purchased a Copy 1/6/86.

22. Regulary since the 12/17/85 Court Order I have tried to settle my issues with City Officials.

23. November 26-29, 1986 Received letter from my Attorneys to make arrangements for a meeting the following week; we met, including my wife. *See #15 & 16 above.*

24. My Original Complaint was never repudiated by City or Court. We specifically filed a Cause of Action under 42 U.S.C. §§1981 and 1983, 2000 -e and Jurisdiction pursuant to 28 U.S.C. §1343 (3) and (4) and §1331.

25. Defendants have never produced or cooperated in a proper manner for Plaintiff's Atttorneys, E.E.O.C. Representatives nor District of Appeals Courts Judges. A copy of the Docket Sheet helps to reveal this allegation, it is also highlighted throughout my Petition.

26. After purchasing Copy of Judge's Order on 1/6/86 and going through an Intimidation Proceeding that same day in Huntsville, Alabama, Would you believe that the Judge had made settlement after reading The Settlement is Ratified and Confirmed by the Court in all respects. See #5 in Petition. Please Note my Steps!

12/23/85-12/29/85 I talked with Mayor Woods each day; Chief Filyaw, Attorney Wiggins and Judge Haltom's female Law-Clerk.

12/24/85 Wrote letter and verified that Judge saw it on 12/26/86 by telephone;

12/27/85 Called, asked Clerk to send Order to me..., see telephone bill in app. and see statement of case.

1/2/86 repeated request above.

Between 1/6/86-1/16/86 I made trips and calls to no effect.

1/16/86 realized that Judge had never recognized me so I became Lead Counsel in my case.

1/17/86 filed Notice of Appeal which Reflected my Intentions 100%...I'm no Lawyer but the steps I took prior to Receiving the $40,149.15 CLEARLY ESTABLISHED my Contentions and Intentions.

1/20/86 Received money from Wiggins under Protest.

27. In between 1/6/86-1/17/86 I Eluded Attorney Wiggins SCAM. "The City may give you the job but you must wait to the next City Council meeting which was scheduled for 1/21/86 four days after it would have been technically too late to effectively file an Appeal". Note Judge Haltom never mentioned I had 30 days to file an Appeal in his 1/6/86 Proceedings but Invited me back to the 11th Circuit but made no mention of 30 day limit after a settlement to file an Appeal. Point in fact made in his 1/17/86 letter or Order to me.

28. 2/21/86 Formally terminated Attorneys Wiggins and Quinn.

29. 5/30/86 Filed Brief to the eleventh Circuit Court of Appeals.

30. / / Filed Petition for Rehearing En Banc denied 1/12/87.

SOME REASONS FOR GRANTING THE WRIT

How can I have been afforded Due Process and Equal Protection of the Law when I was coerced to go Pro Se and no one would give me information to fight with (Mayor of Jasper, Attorneys for City, nor my ex-Attorneys gave me anything I requested) to the Eleventh Circuit. Then the Eleventh Circuit gave a final Order denying my Petition for rehearing and yet I know I have been legally mistreated in a Fraudulent way but don't actually know Why my appeal has been turned down and was told by one of the Clerks (11th Circuit) that a Motion to Clarify the Order in laymen terms is without standing and anything else is without standing except to the Supreme Court. Thus in a sense I am fighting Blindfolded, yet to this point all Courts have approved as if it was strictly my choice.

The Court Should Grant Certiorari to Consider my Contentions That I did not prefer to go Pro Se but due to Partiality and the Lack of Integrity I had less than one chance in a thousand to get the Representation needed to Pursue my Case (I could not make an Attorney Represent me).

It is a general Non-Written Rule that a Lawyer will not go against another, but for my Case to advance Beyond the 12/17/85 Court Order and the 1/12/87 Order (by the Eleventh Circuit Court of Appeals) which Affirmed the Prior mentioned Order an Attorney if he had chosen to Represent me would have had to go against a Federal Judge and the Most Powerful City in the State of Alabama. With the general Non-Written Rule and the other statement above in mind, my Chance to get an Attorney to Represent me was Worse than that described by the Birmingham Bar Association's Director of Lawyer Referral. See Birmingham Bar Association Letter in Appendix.

ACTS OF ATTORNEYS WIGGINS AND QUINN

1. **FAILURE TO:**
   (a) Get Commuting Expenses, Actual Damages, Punitive Damages, Mental Stress Damages, Humiliation Damages and/or Other Damages; Canon 7, DR7-101, A 1)
   (b) Try to establish a precedent rather than look for a precedent; (Canon 6, DR7-101, A 1, DR6-101, A)
   (c) Fight Zealously for what I wanted as was partially outlined in papers; (Canon 7, DR7-101, A 1 & 3)
   (d) Inform Judges of mistakes of fact (Canon 1 & EC 1-4, Canon 6, Canon 7 DR7-102 A 3,4,6 & 7); and
   (e) Failure to give me the opportunity to make decisions.(Canon 9 EC 9-1&2, Canon 1 EC1-4, DR1-101, DRI-102 A-5)

2. **CONCEALMENTS:**
   (a) Defendant's Instatement Offer Letter; (Canon 1, 6, 7, 8 & 9; EC8-5, EC9-1&2, DR9-101, DR9-102 B 1)
   (b) Judge Haltom's Order Entered 12/18/85; (Canon 1, 6, 7, 8 & 9; EC-5, EC9-1&2, DR9-101, DR9-102 B 1)
   (c) Notice of Settlement Conference; (Canon 1, 6, 7, 8 & 9; EC 8-5, EC9-1&2, DR9-101, DR9-102 B 1)
   (d) Notice of Settlement Hearing; (Canon 1, 6, 7, 8, & 9; EC8-5, EC 9-1&2, DR9-101, DR9-102 B 1) and
   (e) Copy of Settlement Proposal Letter he sent to Defendant's Attorney 5/29/85. (Canon 9 EC9-1&2, Canon 1 EC1-4 DR1-101, DR1-12 A 5)

3. **LIES TOLD:**
   (a) Judge Haltom made all the Settlement Arrangements; Canons 1, 6, 7, 8, 9, DR8 101 B)
   (b) No Vested Pension; (Canons 1, 6, 7, 8, & 9, DR8 101 B, DR7-101, DR7-102 A 3, 5, 6)
   (c) Told Judge that I rejected job offer because I could not start off as a Lieutenant; (Canons 1 EC1-4 DR1-101 A 1, 4 & 5, Canons 6, 7, 8, 9, EC8-5) and
   (d) Mining Pensions better than Policemen Pensions. (Canons 1, 6, 7, 8, 9, DR8-101 B DR6-101 & A, DR7-101 A 1 & 3)

4. **WIGGINS NOR QUINN** at no time advised me to take a job with the City of Jasper but to the contrary they did advise me not to take it because I would be making less money, the job was dangerous and that there was a good possibility that I may be set-up to be killed. My wife was asked to help talk me out of wanting the Policeman Job. (Canons 1, 8 & 9)

5. **SETTLED** my Cause of Action without my permission and against my will. ATTORNEY WIGGINS signed a RELEASE to the City of Jasper - Not me. (Canons 1, 6, 7, 8, & 9)

6. **ALLOWED JUDGE** to make facts and conclusions of law he knew to be wrong.

7. **ATTORNEY WIGGINS** mentioned 2 or 3 different times that I was going to mess around and loose my Mining Job and Low and Behold I was Fired 1/21/86; it was very strange in that I had asked a friend who happens to work on the same section as I to tell the Foreman I might take my Sick Days or I might take my Graduated Days. The Foreman acknowledged that and did not tell my friend that my Request was too Vague. (The Foreman knew my sister was sick in Chicago and I was going to take my Mother there; The Foreman knew also I had big problems with the City of Jasper and my Lawyer) yet when I contacted him from home 1/9/85 before that Friday for I could specify what type of days I wanted with pay - He lied to his Foreman (or Allied with) as if I called him to turn in days after the fact that I had been off work. After 12 years that so-called Union lost my case. Yes, I was fired at Jim Walter's, Bessie Coal Mine when I had days to take with pay. I was the first in almost 50 years. If the Foreman had only told my friend that my Request was no good - I could have specified but, as it happens, I didn't have a chance.

ACTS OF CITY ATTORNEYS

1. Allowed the Judge to write Facts and Conclusions of Law known to be wrong, never did cooperate coherently with my Lawyer's Requests nor did they follow Court Orders until they were ready. (Canon 1 EC1-4, DR1-101, DR102 A 1, 4, and 5, Canons 6, and 7 DR7-102 A 3,4,5,6,7,8, Canon 8 EC8-5 Canon 9 EC-9-1,2 DR9-101 C) See Facts & Conclusions of Law in Petition & app.

2. The City's Attorney Lied about me:
   (a) Not wanting to attend the Settlement Conference Meeting;
   (b) Not wanting to attend Settlement Hearing held in Jasper 11/25/85; and
   (c) Being invited to each and every meeting concerning my case. (Canons 1, 6, 7, 8 and 9, DR7-102 A 5, 6, 8)

3. Appearance of Impropriety. The Letter dated 12/20/85 "Also enclosed is the City's letter to Mr. Darnell. I do not have an address for him and I know he will get it through you." If Lawyers are bound to only Correspond with other Lawyers, WHY THE CHEAP SHOT or Under the Circumstances IT WOULD HAVE BEEN MORE PROPER to send me the Original Letter Directly and thus send copies to the Judge and to my Attorneys. My Telephone Number and Address have been in the Jasper Telephone Directory since 1977.(Canon 1, EC1-4; EC9-1 & 2 DR9-101)

4. The City's Attorney wrote letters which one can reasonably interpret to say the City Officials didn't intend on me getting job with (J.P.D.) **The City Officials and their Attorneys acted in BAD FAITH.** They didn't intend on me seeing City's Instatement Offer Letter nor Judge Haltom's 12/17/85 Order. (They knew I had not seen it but stated that my Attorneys had my Copy and I must get a copy from them being **Fully Aware that I had told Mayor Woods my Attorneys wouldn't give me a Copy of Judge Haltom's Order.**) The City has never accepted the fact they did me INTENTIONALLY WRONG and is still willing to Discriminate and have since the Last District Court Order Retaliated on me. (Canon 8)

5. The City's Attorney allowed a MULTIPLICITY of ERRORS and OMMISSIONS to cloud the Judge's Order without making it known to the Court. (In that way, THE CITY OFFICIALS and their ATTORNEYS ALLOWED LIES and OMMISSIONS to Become so-called Factual Records of the Court.)(Same as #1)

6. The City's Attorney Never Adhered to the Court Order 12/17/85 "Simultaneously send a copy of instatement to the Clerk of the Court in Huntsville". Records reveal the Clerk RECEIVED Instatement Offer Letter 12/31/85 or 1/6/86. For that alone I should have been given the BENEFIT of 5 days from the time the Huntsville Federal Court clerk stamped it RECEIVED. Canons 1, 8 and 9)

7. Attorneys for the City of Jasper wrote at least 4 letters dated in order 9/28/85, 10/14/85, 11/16/85 and 12/20/85 in which BOTH Judge Haltom and my Attorneys received copies. The Language of the first 3 letters Most Vividly declare that the City of Jasper DID NOT plan to pay out any more money than $84,149.15 which in itself Imply that I will not get a Job with the Jasper Police Department. The 4th letter ices over the FACT that they NEVER Intended for me to see ANYTHING. See Fraud & Deceit and the Instatement Offer Letter signed by Mayor Woods. It carries the same date as the 12/20/85 letter above. WHO signed the 1st 12/20/85 letter for Atty. J. Selman???

ACTS OF MAYOR WOODS

1. Mayor Woods Listened and Accepted any and all information I gave him, acknowledged some wrongs, but still conversed with his lawyers when he knew they were only taking advantage of me because they could get away with it. He knew I hadn't seen the 12/17/85 Court Order. I never mentioned an Instatement Offer Letter because Attorney Wiggins had told me Judge Haltom made the Settlement. (I assume both Parties Attorneys submitted various documents to the Judge and he decided what to put in his 12/17/85 Order.) Mayor Woods apparently wrote me a Job Offer Letter in care of my attorney which was never forwarded nor mentioned to me. *See City Pressures Darnell in app.*

   I was "DEEPLY HURT". WHY? How can any man with Integrity and Backbone witness the Origin of such Insidious Acts; Later, become Mayor and Pretend the City haven't done any Wrong. This is just Indicative that the City Officials would not hesitate a Moment to Discriminate again knowing that they can Get Away with it or get only a "Token Punishment".

ACTS OF ALFONZA DARNELL

1. I took off work (Underground Coal Miner) 12/23/85 - 12/29/85 and 1/3/86-1/19/86 and talked to Mayor Woods every business day he was in. During this time, I sincerely tried to get information concerning my case, but to my dismay, I came very short of my goal. This could have only happened by TEAMWORK of PRE-MEDITATED FRAUD. I am alleging the Conspirators were made up with MOST or ALL of the following: Judge Haltom and his female Law Clerk, Attorneys Wiggins and Quinn and their Secretary, Ms. Jernigan, Attorneys J. Selman and T. K. Selman and M. Savage, Mayor Woods and his Councilmen Brignet, Haynes, McLaughlin, Myers and Trotter, and the Clerk of the Court in Huntsville. *See Telephone Records in app.*

   During all this aforementioned time, I couldn't make Heads or Tails of what happened...I'm still running the Gauntlet.

ACTS OF HUNTSVILLE COURT CLERK

1. I called the Clerk twice 12/27/85 and 1/2/86 and ask her to send me a copy of the 12/17/85 Court Order she said both times "I'll put you one in the mail today". I RECEIVED NOTHING so I went to Huntsville, Alabama 1/6/86, got a copy of the Order and before I could leave I was Summon by Judge Haltom for His Ex-Parte Intimidation Proceedings...Recently I talked face to face with the Clerk in Huntsville 2/28/87 she stated that if I called her and she said she would mail me a copy of the 12/17/85 Court Order then she sent it to me and not my Lawyer. "I Never Received It."

ACTS OF JUDGE HALTOM

1. Allowed the City to take from 7/3/84 to 4/11/85 to Respond to my Attorney's REQUESTS without a PENALTY. *See stmt. of case #15 at bold print. Canon 2, A & Commentary, Canon 3, A 2 & 5 & Commentary.*

2. Failed to correct his Findings of Fact and Conclusions of Law which have had an effect on me and others who may later claim Race Discrimination.

3. Failed to INITIATE DISCIPLINE PROCEDURES against my Attorneys or the City's Attorneys but, rather gave PRAISES for my Attorneys.

4. IGNORED MY CRY FOR HELP in his IMPROPER RESPONSE to my 12/24/85 Letter that He saw Personally on 12/26/85 BEFORE my 5 days were up wherein I had to Accept or Reject J.P.D. Job Offer. His Response was by letter dated 12/30/85 to both Defendants Attorneys and to my Attorneys. According to the contents of that letter Judge Haltom made an Intentional Improper move in Response to it. District Judge Haltom took Professional Ethics too FAR in view of the Circumstances in this case. *See Premeditated Ex-Parte Intimidation Hearing in app.* quote "Well, this Court was under No Obligation to send you an Order. We deal with lawyers." Technically when the Clerk of the Court stated she would mail me a copy of the 12/17/85 Order the Court was OBLIGATED. In that Proceeding the Judge was Robed, had a Court Reporter, Uniform Officer and a Law-Clerk. (COMPARE District Judge Response to my letter to 5/1/85 Order and Note) Was that more important than my 12/24/85 Letter? Canons 1, 2 & Commentary 3 A 1,3 Commentary, 4,5,B 3, C 1 & A - *Also in that INTIMIDATION PROCEEDINGS THE Judge LIES on ME and ACTED DUMB as to the CONTENTS of my 12/24/85 LETTER; THE MAIN POINTS are that I asked for a PROPER MEETING AND STATED I HAD NOT SEEN HIS COURT ORDER.

5. PLEASE SEE and READ "Errors Per Court Order Entered 12/17/85". This Order Violated "the Almost Unanimous Rule laid down by the Courts of the United States, both Federal and State, is that an Attorney at Law has no power, by virtue of his general, retainer to COMPROMISE his Client's cause of action; but, that Precedent Special Authority or Subsequent Ratification is Necessary to make such a Compromise Valid and Binding on the Client. The reason for this rule is that an Attorney is retained to Prosecute and Protect the Rights of his Client, and CANNOT, by COMPROMISE, GIVE AWAY THOSE RIGHTS, for THEY ARE NOT HIS TO GIVE. *Dwight v Hazlett* 107 W. Va. 192, 147 SE 877 66 ALR 102

Other Main Points are: Jasper City Officials and Attorneys as well as my Ex-Attorneys were ACCESSORIES BEFORE and AFTER the FACT the Court was given wrong Figures and Information. Judge went far from Standard set as in *Boyd vs Bechtel Corp.* (1979 ND, Cal) 485 F Supp 610 and Denied Actual Expenses (including commuting) and my §1981 and §1983 Causes of Actions.

6. Judge Haltom knew I had been talking to his Law-Clerk about the case. It is my belief that she at least told him my lawyers wouldn't give me a copy of his 12/17/85 Court Order before I wrote the letter dated 12/24/85 and yet he did NOTHING, NOT EVEN when he read my letter personally on 12/26/85. Canon 2 and Commentary.

COMMENTARY: ERROR PER ORDER ENTERED 12/17/85 Judge violates Canons 1, 2 & 3 and Eleventh Circuit's Mandate "Make Possible the fashioning of the MOST COMPLETE RELIEF Possible" in that If My Attorney had not Lied on Judge, Negotiated or Settled my Cause of Action against my will Just Adhering to the 4/23/84 Court of Appeals mandate would have given me a job and $53,989 as a Minimum Relief but the Judge allowed these fraudulent acts to be committed by both Defendants and Plaintiff's Attorneys and further Solidified these Acts of Fraud by his own Participation along with his Law-Clerk and the Court Clerk.

ERRORS PER COURT ORDER 12/17/85

1. Lieutenant Corbell paid $6,650.00 into Pension Plan; Matching amount for Darnell is $10,881.03. Had it not been for Discrimination, I too would have put $6,650.00 plus an amount commensurate to the time 7/73 - 3/75 which the City concealed from the Court the fact that Corbell resigned and returned in 1975; therefore, his Pension Time began in 1975 rather than 1973.
   (a) $10,881.03 - $6,650.00 = $4,231.03
   Is that a PENALTY or ERR?
   (b) 7/73-3/75 = 1 year 8 months LOST
   Is that a PENALTY or ERR?
   (c) My Seniority and Backpay could have legally begun 8/72 since the Racial Discrimination had been continuous since 1971. (Why Not? It was two years prior to filing formal complaint which is allowable under Title VII since I filed under §§ 1981 & 1983 three years back was available for Backpay Purposes in this Most Intentional Racial Discrimination Case.)

2. The salaries for J.P.D. Lieutenants were approximately $17,500.00 at the end of 1986 and not $22,958.00 as revealed in 2/17/85 Order.

3. Denying Darnell Actual and Commuting Expenses and/or time loss from family for 12 years via Title -7 or 42 U.S.C. §§ 1981 and 1983. Contrary to basic purpose of Title VII Make Whole Policy.

4. Denying Darnell Punitive and/or Other Damages via 42 U.S.C. §§ 1981 and 1983 (Both District and Appeals Courts strayed from the standards already set. The Eleventh Circuit compared my case to Walker v Ford wherein Walker filed suit exclusively under Title VII; But, I filed suit under Title VII and 42 U.S.C. §§1981 and 1983, and 28 U.S.C. §§ 1343 (3) & (4) and 1331.

5. Judge erred in abusing my Civil Rights in the amount of time that transpired from the Eleventh Circuit's Mandate dated 4/23/84 and the time he entered his decision 12/17/85 See Statement of Case decision 12/17/85 See Statement of Case #15 (Appearance of Impropriety). Canon 3-A3

6. 12/17/85 Order specifically stated "A copy of such instatement offer shall be simultaneously mailed to the Clerk of the Court in Huntsville, Alabama." It appears that the letter - I got a copy of from the Clerk's office in Huntsville didn't get there until 1/6/85. I was there around 12:00 when I got a copy of Judge Haltom's Court Order Entered 12/17/85 and I looked through the records personally - there was no Job Offer letters from the City of Jasper nor a letter dated 1/3/86 from Attorney Wiggins. EVIDENTLY, the Defendants didn't adhere to Court Order.

7. Order did not consider that my Educational Background was superior to all J.P.D. Personnel for the last 15 years to my knowledge yet Lanny Capps made Lieutenant in less than 3 years and Major in less than 6 years and the Nerve for the Court to say it is fair to assume I couldn't make the ranks Capps made in more than twice the time it took him to make is Absurd in consideration of my General Background and my DESIGNED REASONS for wanting to be a Policeman in Jasper.

8. Judge erred by not reading between the lines of Counsels. The counsels communications without doubt reflect that there was no intention for me to get the job.

9. Judge Haltom's Order went far from the standard set in such cases as *Boyd v. Bechtel Corp.* 485 F Supp 610 and/or Federal Civil Procedures Key 1699. In assessing a settlement, District Court must first examine the proposal consent decree substantitively and determine whether the relief it provides is fair, adequate and reasonable and, in so doing, the court should consider the strength of the case, the reasonableness of the settlement in light of the risks of litigation and in light of the best possible recovery, the experience and views of plaintiff's counsel, whether there is evidence of collusion, the extent of discovery and the stage of the proceedings the expected complexity and expense of further litigation and any **Objections** to the settlement.

If this had been adhered to - the Appeals Court and maybe the Supreme Court, would have been spared the time. *Compare underline prints, above to the fact that Settlement Proposal is not in Court Records.* See Attorney Wiggins, 7/1/85 letter to Judge Haltom.

10. Order violated the almost unanimous rule, *See Acts of Judge Haltom #5.*

11. A Judge cannot determine the fairness of a Settlement Proposal without having a copy of it along with all of the written facts and the proper figures and computations before him along with the explanations of how they were derived and knowing precisely how they were used.

The closest thing to a Settlement Proposal I saw after reviewing the files 2/25/87 was a letter implying that Jerry Selman was sent a copy of a Settlement Proposal 5/29/85.

12. A letter dated 12/24/85 shows my intentions and integrity and further Contradicts Judge Haltom's statements in his Pre-Meditated Ex-Parte Intimidation Proceedings held in Huntsville, Alabama 1/6/86. See page 2 second paragraph wherein he stopped me from leaving copies of the same papers I left with Mayor Woods. For him to know what I wanted to do or even that I was coming coerce me to believe the judge was given a call by either the City Officials or one of it's representatives or my Ex-Attorneys. Page 4 bottom paragraph The Court "Mr. Darnell are you saying to this Court that your lawyer refused to give you a copy of the Court's Order?" As if he didn't see that point in my letter he received before the 5 days were up for me to either Accept or Reject.

Judge Haltom, Mayor Woods, Jasper City Councilmen, City's Attorneys, as well as my Attorney, KNEW BEYOND ANY DOUBT that whether I Accepted or Rejected their Contract Offer was PURELY CONTINGENT UPON ME FIRST getting a copy of Judge Haltom's Court Order signed by him- Second, that I got in writing that my Attorneys state in writing that they had done their best for me and that I was entitled to no other benefits along with their signatures. However, Attorney J. Selman in his Brief sent to the Eleventh Circuit in Response to my brief, stated that I "but, Sent Word to the Judge Through His Attorneys That He Would Not Consider Such Offer Until It Was Made In WRITING by the City Itself."

"To that end Honorable E. B. Haltom, Jr., entered an order dated December 17, 1985, setting forth the provisions of the November 25, 1985, settlement conference/bench hearing and in this order directed the City of Jasper to write a letter to Mr. Alfonza Darnell offering him instatement as a patrolman." IF, my Atttorneys stated I said that, Then that was a LIE. For an Attorney to have quoted what I said above to a U.S. Court would have been MOST EMBARRASING to Them and Most Probably to the Judge in that it would have served to ILLUMINATE the Possibility of Impropriety. PLEASE NOTE: 1/6/86 I first saw 12/17/85 Court Order, 1/16/85 - I first saw City's Instatement offer Letter.

(A) Why I asked that the above be put in Writing?
Answer= My Attorneys stated to me that Judge Haltom made the Settlement, therefore, in my mind I couldn't Disapprove what the Judge Ordered but, I could make sure that I was not MESSED OVER by my Attorneys by requesting what I did from them and also make sure that the Judge did Order precisely what my Attorneys had told me by Requesting a copy of Order with the Judge's signature on it. Last, but MOST DEFINITELY not Least with this in writing I WOULD HAVE HAD SOMETHING TO SCRUTINIZE and MORE THAN THAT SOMETHING TO FIGHT WITH IN COURT IF I WERE TO FIND OUT THAT I HAD BEEN LIED TO OR ABUSED BY EITHER OR ALL INVOLVED IN THIS LITIGATION.

(B) *See Acts of Alfonza Darnell to see who all actively participated in a fraud against me.*

(C) Any one of the fifteen above-named people could have prevented this continuing Racial Bias and Fraud.

(D) The Judge and Attorneys Involved in this Almost UNbelievable Conspiracy to Keep me from getting a Jasper Policeman Job and Adequate Compensation for the City's

Discrimination VIOLATED at least THREE CANONS EACH relative to their Professional CODE to hurt ME. " The Truth "

13. No Provision for me to move up after mastering job levels below that where I would have been absent Racial Discrimination nor Provisions for my salary to continue to parallel Lieutenant Corbell.

ELEVENTH CIRCUIT VIOLATED AND ALLOWED THE VIOLATION OF ITS OWN MANDATE

IN SUMMATION OF THE ERRORS, JUDGE HALTOM IGNORES CANONS 1, 2 & 3 and willfully Violated the Eleventh Circuit's Mandate "Make Posible the Fashioning of the Most Complete Relief Possible: and Neglected the Basic Purpose of Title VII is to "Make Whole" victims of unlawful discrimination, *Albermarble Paper Company v Moody* 422 U.S. 405, 418, 95 S.Ct. 2362, 2372, 45 L.Ed.280 (1975); *Franks v. Bowman Transportation Company,* 424 U.S. at 747, 763, 96 S.Ct. 1251, 1264, 47 L.Ed.2d 444 (1976). To this end the ACT vest(s) broad equitable discretion in the fedeal courts...Moreover, "Congress purpose in vesting a variety of discretionary powers in the courts was not to limit appellate review of trial courts or to invite inconsistency or caprice, but rather to "make possible the fashioning of the most complete relief possible". If my Attorney had not lied on the Judge or Settled my cause of Action against my will Just Adhering to the 4/23/84 Court of Appeals mandate would have given me a Job and $53,989.05 as a Minimum Relief *(see chart in app.)* but No the Judge Allowed Fraudulent Acts to be committed by both Defendants and Plaintiff's Attorneys and Further Solidified those Acts of Fraud by His own Participation in the Fraud along with his Law Clerk and Court Clerk.

Ironically the Eleventh Circuit stated, Title VII claimants are also presumptively entitled to reinstatement under the "Make Whole" policy Darnell, 730 F.2d at 655. See also *Garza v Brownsville Independent School District.* 700 F2d 253, 255 (5th Cir. 1983).

In view of the above quote, both District and Appeals Courts are in err denying Darnell, (me) the "Right to see the pig in the poke before I buy him"; put another way, "Right to see the Court Order and Terms of Job Offer before I ACCEPT or REJECT." District Court was aware that I did not see 12/17/85 Order until 1/6/86 yet I had only 5 days to accept or reject offer and also aware I first learn of and saw City's Instatement Offer Letter 1/16/86. How can a person scrutinize an Oral Contract? - Why should any Court expect one 5 days before Christmas with 5 children to decide in 5 days to accept a job which

pays 40% less than what one has been earning, knowing that he will be placed on Bottom where as Rank is concern with No Provisions to move up after acquiring the skills and knowledge of the lower levels below that where I would have been absent Racial Discrimination and considering that I had been on previous job for the last 12 years. They are also in err to believe that I ratified a contract I did not see. The City of Jasper have never offered this job to me and never done more than make a down payment on what I am actually due according to the 4/23/84 Mandate.

Apparently both District and Court of Appeals (llth Cir.) forgot in my case, llth Cir. quote **"Court must bear in mind that awards of Monetary Relief under Title VII.** Must be FASHIONED in a manner to 'Further the goals of Ending Illegal Discrimination and Rectifying the Harm it causes'." *Thompson v Sawyer* 678 F.2d at 292.

Nord vs United States Steel Corp. 758F2d 1462 (1985) at 1472, 1473. Here, the court granted back pay but ended the backpay period on the date of the courts oral findings over four months before judgement was entered. This was contrary to the "make whole" purpose of Title VII and therefore constitute error. In a similar situation my attorneys took money from my specific award for Attorney fees with the approval of this very same llth Circuit Court of Appeals which made the above ruling. More than likely since we came up with different figures for my back-pay doing it the way prescribed in Court Records indicate that my Backpay was stopped before the judgement, as well as attorney fees. (Although my contract with Attorney Wiggins was that my Monetary Awards would not be affected by his Legal fees- he lied and committed Robbery) For this the Appeal Court Erred in allowing it be done. **Eleventh Circuit quote "Despite trial court's broad discretion, errors of law are not permitted, no matter how small".** 758 F.2d at 1464 #13. Key 932.

Papers written by plaintiff and distributed to the people whose names appeared on said papers and to my Ex-Lawyer: proves that my lawyer did not follow my directions and those papers gave some specific duties and also indicates clearly I was trying to ask for anything that I was entitled to under the laws. (I did personally tell Attorney Wiggins before we went to Court that I wanted all that I was entitled to get by law) Papers shows that most of the so-called City Leaders (see papers in appendix) and legal Professions were sincerely contacted by me or my wife for help but to no avail. How can any Court or Tribunal say that I was not Mentally or Physically abused

when I was at the tender age of 23 and get a Slavery Time Beating by the very people entrusted to enforce and uphold the Laws of Our Great Country who averaged over 42 years of age at the Time these Intentional Insidious Acts took place. Recent quote from the one I personally asked for help more times than most others see Clout Quote in appendix, "I'm a Builder...I'm in a position to build the Largest Projects in the World." How do the District and Appeal Courts expect me to teach my children when I have been whipped from both sides of the law. The City of Jasper went strictly by law when it was expedient and went to the wrong side of the law when it was expedient, intentionally misled this Honorable Natured Judicial System at the City's will. Please! Tell me what do I teach them.

Members of the Bridgeport Housing Authority Police Force, et. al. v. City of Bridgeport et. al 499 F. Supp. 760 (1980). Civil Rights Key 46. Court has not only broad power as court of equity to remedy vestiges of past discriminatory practice, but also duty to render decree which will so far as possible bar like discrimination in the future. "Footnote 11 pg 765 (Partial). But in any event, this Court has found Intentional Discrimination and Bad Faith on the City's part, and that finding clearly supports an order providing relief in §§ 1981 and 1983. *Johnson v Railway Express, supra."* The statue of limitations under those statutes is three years.

[5] pg 765 "As to the time period the backpay award should cover, the City seems to be in substantial agreement with the plaintiffs. Title VII limits awards of backpay to a period not exceeding two years before filing charge with the E.E.O.C. 42 U.S.C. §2000e - 5 (g). Since plaintiffs filed their charge in this case on August 18, 1976, they should receive backpay from August 18, 1974. But such equitable relief is available also under §§ 1981 and 1983. *See e.g., Johnson v. Railway Express Agency, supra,* and the statue of limitations under those statutes is three years, *Williams v. Walsh,* 558 F.2d 667 (2d Cir. 1977). Not allowing me the three years under my §§1981 & 1983 Causes were bad but not allowing me the two years under just Title VII was worse.

COMMUTING EXPENSES: After it was determined that termination of school teachers' employment resulted from unlawful discrimination, the District Court, Cowan, J., made various determinations concerning award of damages, costs and attorney fees and issued instructions concerning preparation of judgement. Ultimately, Plaintiffs were awarded Commuting expenses for the difference in distance from where they had been working and the places they were coerced to find work because of Discrimination. In this present case had it not been for Racial Discrimination I would have driven 54 miles per day less than what I did for 12 years.

Harkless v. Sweeney Independent School District. 466 F. Supp 457 (1978). Most contrary to Make Whole Policy.

DECISION: Punitive damages in action under 42 USCS §1983, held available when defendant's conduct is shown to be motivated by evil motive or intent or when it involves reckless or callous indifference to federally protected rights of others. *SMITH v. WADE* 461 US 30, 75 L Ed 2d 632, 103 S Ct 1625.

Exemplary Damages were given in *Garrick v City and County of Denver,* U.S.C.A. Tenth Circuit June 29, 1981.

6. Civil Rights Key 13.1 Section 1983 of Civil Rights Act was intended to deter, inter alia, officially condoned lawless conduct directed against newly freed blacks. 42 U.S.C.A. §1983 *Bell v City of Milwaukee* 746 F. 2d 1205 (1984) at pg 1206.

United States v Local #189, United Papermakers and Paperworkers, 301 F Supp 906, a consent decree that was entered into whereby in full agreement of all parties, COURT on its own motions had training programs instituted in order to qualify eligible employees for all jobs which they are eligible for permanent, temporary or casual assignment, which absent racial discrimination they would have been qualified for.

Leisner v New York Telephone Co., 358 F Supp 359, case held that for adequate relief under Title VII litigation, ANY agreement seeking court approval of the settlement must include special upgrading and Associated Training Programs to those discriminated against due to Racial Discrimination, as well as an appropriate reporting criteria be established to monitor compliance with that settlement.

Recovery of Compensation Damages in Civil Rights Actions for Emotional Distress, Embarrassment and Humiliation is not dependent upon proof of elements of tort of Intentional Infliction of Emotional Distress but in order to recover such Damages, it is only necessary for Plaintiff to show that he in fact suffered emotional distress, embarrassment and/or humiliation and that Defendent's actions proximately caused Plaintiff's Injury. *Auxmiller v University of Delaware,* D.C. Del. 1977, 434 F.Supp. 1273

Please put statement to tender the money I received: Alfonza Darnell will TENDER the $40,149.15 with interest.

No Judge can ADJUDICATE a CASE IMPARTIALLY while he, himself is violating the Codes of Judicial Conduct for United States Judges to the Advantage of ONE of the parties involved.

No Court should accept ANY Defendants allegations without them being substantiated or at the least show a Prepondance of Evidence which shall serve to persuade a Reasonable Prudent man to believe such allegations are true. Both District and Appeals Courts accepted the City of Jasper, Alabama Attorneys allegations without ANY of it being SUBSTANTIATED. To claim a client receives something just because his attorney received it is ludicrous nowadays. **"It Must Be Proven Beyond That Theory or Hoax. That is the crux why §§ 1981 & 1983 was instituted."** On 4/7/87 Magistrate Nelson, in room 153 Birmingham, Alabama, Federal court House, ruled that the correspondence between Attorneys conceming his client is privilege only to the Client's Attorney. Looking from that perspective your attorney(s) can sell you out and, like I am now, you can't find out NOTHING.

No Lawyer(s) can Represent his/their Client(s) Competently while he/they is/are Violating the Statues/Law set by the Supreme Court of Alabama and the American Bar Association. (Code of Professional Responsibility).

Attorneys at Law

According to Attorneys at Law 7 Am Jur 2d Lawyers Wiggins and Quinn violated Sections 4, 48, 53, 120, 150 and 156. Attorney J. Selman violated at least Section 4, especially the underline portion in petition.

Looking further at Sections 135, 156 and 158, I Rely on those to help substantiate my cause to the Supreme Court.

Fraud and Deceit

According to Fraud and Deceit 37 Am Jur 2d Plaintiff's Attorneys Wiggins and Quinn; Defendant Mayor Woods, Councilmen Brignet, Haynes, McLaughlin, Myers and Trotter and their Attorneys J. Selman, T.K. Selman and M. Savage; Judge Haltom, his female Law-Clerk and the Huntsville Court Clerk **ALL VIOLATED Sections 1, 2, 12, 144, 434, and 440.** I humbly ask for the Right to name others later.

The Court Should rule That Its Decisions Under The Fourteenth Amendment Recognizing Unequal Treatment As An Injury-In-Fact

Apply Equally To this Case. Look at the Direct Way I had to respond to Mayor Woods and look and see how the City was not compelled to deal directly with me. I was ordered to write directly to Mayor Woods but he in turn wrote to my Attorney. (Unequal & Fraudulent Intent) See and Scrutinize the Entire 12/17/85 Order, you will find it is definitely Pro-City of Jasper. Eleventh Circuit sent the City's Brief back and spelled out Jurisdiction statement missing for whatever precise Reasons my Briefs were Rejected had they clearly pointed out what I lacked for Standing - perhaps I could have perfected my Appeal . (Unequal)

THE FRAUD

The Fraud was for me Not to get the Job and to Minimize Monetary Relief Available under U.S. Laws

THE INJURIES AND DAMAGES

Had it not been for the Fraud I would not had to take off work thus I wouldn't have gotten fired *(Lost a $30,000.00 a year + job - see #7 Acts of Wiggins . . .)* because I would have had written papers which I could have Rationally SCRUTINIZED during the Holidays between 12/20/85 and 12/29/85. But, I was Seriously Injured by the Fraud which has had a Paramount Effect upon me and my Family. This Fraud directly lead to our injury.

After Sacrificing since 1974, trying my best not to be ran out of Jasper fighting and purely Uphill Battle I manage to amass over $250,000.00 worth of Assets with approximately $110,000.00 of Debts. To me and my Family's Detriment We Rely on Our Lord to work through You Supreme Court Justices for ONLY that which is JUST and FAIR. Over 96% of my life I have gone by this, many years I wasn't aware of this Quote "Study to shew thyself approved unto God, a workman needeth not to be ashamed, rightly dividing the word of truth" II Timothy 2:15. Had it not been for my College Education and Assets (which are in VERY SERIOUS JEOPARDY PRESENTLY) both together allowed me the Chance to be Heard. My Family have NO Health INSURANCE, my wife is expecting her 6th child in September - She is expected to see a Doctor for the first time Mondy 4/13/87, my entire family need Dental Care by an Dentist, I don't have Proper Insurance on some of my property, I haven't paid any federal taxes, All of my bills are now behind and will be even further behind from the expenditures I must spend in my attempt to represent this present case to You Supreme Court Justices. I have

been threaten with foreclosures at least 5 times in the last year, My family has had at least three hospital bills and all of the above mentioned within the last year because of Fraud.

Justice Blackmun in the Albermarble case stated, "I believe that the explover's good faith may be a very relevant factor for a court to consider in exercising its discretionary power to fashion an appropriate affirmative action order." But in this instant case the Defendants not only acted in "Bad Faith" with me, the plaintiff but has done so equally as well against the Federal Court itself. **PROOF: Scrutinize the Docket sheets (see Docket sheets in main app.) you will find that the Respondents responded when THEY got Ready to both Petitioner's Requests as well as to the Court Orders. (From 1977 - 1985.)** This attitude of the Respondents were even more prevalent during the E.E.O.C. investigations. NOTE: Judge Haltom never made the E.E.O.C. Facts and Conclusions a part of his Facts and Conclusions of Law even after seeing the Contradictions.

I had a Security Clearance while working with General Electric's, Heavy Military Electronics Department in Syracuse, New York in 1971 the same year I first applied for a Policeman job . . . I occasionally inquired since 1971 to the present date 4/8/87 but was denied earlier because of a FRAME-UP and denied more recently because of a FRAME-UP, I now refer to as INTENTIONABLE ACTIONABLE FRAUD. This Continuing Fraud was and is being Conducted by City Officials. I have never Plotted to kill policemen nor Been guilty of Bootlegging nor the other Frame-up Lies City Officials Orchestrated. If ANY of those lies were true how did I obtain another Security Clearance to work for the U.S. Postal Service in 1974 directly after I learned WHY I had not been Hired by the Jasper Police Department. **The Incredible Story is that these Frame-Up Allegations are currently on the Federal Court Records in Judge Haltom's 1982 Findings of Fact and Conclusions of Law, also in these Findings of Fact is that the City of Jasper have gone by the Civil Service Act which theoretically apply to Jasper which both of Judge Haltom's Findings of Fact points had been Contradicted by ME and the E.E.O.C. Reports.** see #4 Statement of of Case 1st para. I believe those 1982 Hearings and the Order gave birth to this long insuing Fraud. Could this have any bearings on why Judge Haltom Refused to let Attorney Savage out of this case? **Please NOTE! Attorneys Savage and Wiggins communications was never done in a way you could Squarely slap them. (Little or No correspondence was given to the Court.) Thanks to God's Blessings young Jerry K. Selman Highly Illuminated the Dealings in my case and now**

ALL of the Fraud Participants Lies to Cover Each Other, but A MILLION LIES can't Overturn A Single Truth. This was Recently Exemplified in the 4/7/87 Hearing in room 153 Birmingham, Alabama Federal Courthouse under the direction of Magistrate Nelson. Attorneys Quinn and J. Selman teamed up against me - they lied so Profusedly it is Pure Disgrace to keep such Attorneys in our Legal Profession especially when they MOST INTENTIONALLY Violate the CANONS in the Code of Professional Responsibility.

Quote from 45L ED 2d at pg 312 "There is no comparable discretion here: If a plaintiff proves Unlawful Discrimination and Actual Damages, he is entitled to judgement for that amount. District Court Factual findings are "Clearly Erroneous" and its, as well as the Eleventh Circuit's Ultimate Conclusions are an "Abuse of Discretion" under all the Circumstances of this case. They both have Re-Written the Basic Purposes of Title VII or One have been Hoodwinked by the Factual Findings of the Other. (District Court misused the "Rightful Place" theory.) Both District and Appeal Courts are guilty of Canon 3 B (3) **A Judge should take or initiate appropriate disciplinary measures against a Judge or Lawyer for Unprofessional Conduct of which the Judge may become Aware.***

SETTLE THIS ENTIRE SITUATION

If you will lump this tort case with this Discrimination Case and Settle the Entire Situation using Sections 42 U.S.C. Sections 1981, 1983, 1985, 1986, 1988 and 2000 e - et seq. It will better serve justice.

JUDGE'S ALLOW BREEDING OF PARTIAL JUDGES

1. Most of the Legal Professionals and the Judiciary I have been exposed to show no Integrity nor Impartiality. The Director of Lawyer Referral at the Birmingham Bar Association quote "Even though there are over 2,000 members of the Birmingham Bar Association, these are the only two (2) attorneys we are aware of who might consider handling a case of this nature". This explains why I haven't been able to get an attorney and assuming that the odds of getting an attorney to go against a Federal Judge or against the Most Powerful City in the state is most obdurate at the least. No lawyer I talked to had the Integrity with Backbone to endure risking reprisals

from his peers, from Federal Judges nor from the most Powerful City in the State of Alabama known to have "hit men" in its Jurisdiction as was brought out on the TV Series of DONAHUE. This entire situation is unique but in general there are less unique but substantial similar type situations all over the Continental U.S. which can only be remedied by you, Supreme Court Justices. I pray that you will decide my entire case for the SPECIAL Reason to Set the Standard for gross abuse of Power exercised by Lawyers and Judges and give the Small Law Firms and Individual Lawyers their Independence Back. Until such is done the Integrity and Impartiality in our Judiciary will continue to erode. The Code of Professional Responsibility and the Judicial Code for Federal Judges indicates in essence that our Lawyers and Judges are our leaders of Impartiality and Integrity, but this is so far from the Real Truth. The fact that a lawyer will not go against another lawyer or Judge Regardless of the Circumstances of each case is Sick; For the Supreme Court Justices to ignore this situation would be Constitutionally Wrong. See the following:

Preamble

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Our Judicary has Allow the Breeding of Impartial Judges in that all Lawyers are in my text are Fetal-Judges and several dozens or more of the 2000 plus Birmingham Attorneys will become Judges who are now Partial Without Backbone nor strong Integrity. Lawyers won't go against another Regardless of the situation. How can our Federal System survive with weak Judges? This is just one example that I am Personally familiar with but I have no doubt in my heart that this is Continental of the entire United States:

With this Behavioral Pattern - We CANNOT:

1. Form a more Perfect Union
2. Establish Justice
3. Insure Domestic Tranquility
4. Provide for the Common Defense
   (a) Together we stand - Divided we fall
   (b) This is why our Defense is Questionable
   (c) We are Divided because Our Leaders are WITHOUT INTEGRITY or BACKBONE. But, This can ONLY by Remedied by OUR HONORABLE Supreme Court Justices.

5. Promote the General Welfare
6. Secure the Blessings of Liberty to Ourselves and our Posterity.

My Gut Heart Opinion coerces me to state; If YOU Supreme Court Justices ADJUDICATE the ENTIRE ASPECTS of this CASE, It Will Set a Standard For All Federal Judges To Follow and It Will Go Farther to ERADICATE the IGNOMINOUS PAGE IN OUR HISTORY of such INSIDIOUS RACIAL DISCRIMINATION ACTS as Well as the INSIDIOUS ACTS OF OUR LEADERS, OUR JUDICIARY, OUR ATTORNEYS and last OUR PUBLIC. Such a RULING Will Have A MORE PROFOUND EFFECT ON OUR GOVERNMENT and PEOPLE REGARDLESS of WHO or RICHES - (Than the Entire Lot of Previously Adjudicated Discrimination CASES.)

The Announcement made concerning the Promotions of Blacks to 25% of Management Jobs within the Alabama State Troopers Organization was good. But, it is still similar to a Drug Bust without getting the King and Queen Pins - You haven't ELIMINATED the PROBLEM but rather PAUSED IT. If YOU would only Revive the Judiciary and Legal Professionals most or all of these other situations will Disappear. Please begin Eradication of the Partial Lawyers and Judges especially the ones without Integrity.

I PRAY that this Correspondence to YOU have been Inspired by God and is a message to YOUR HEARTS to approve YOUR Thoughts which I am sure Most if not ALL of YOU have been Perplexed with.

Our Legal System has gotten so WEAK it Can't Discipline the Treasoners or Congressmen nor Senators who SEXUALLY abused OUR CHILDREN. The Discoverer of Water-Gate is Rumored to be Jobless when in fact, he should have been given Full Retirement for his Integrity but Contrarily it APPEARS to me that he was punished for his Honesty. Whenever the PEOPLE know that the Law is not a Respecter of Persons - They will then Rally and have Conviction in our Judiciary. The Belief that one has that Truth is going to PREVAIL REGARDLESS of who is Opposing them will serve the Purposes of Why Our Fore Fathers wrote the Constitution and the Preamble. "We the People". Note: God is "TRUTH".

Our Law Makers and Law Enforcers tend to carry Immunity against their Wrong Doings and Bad Acts of Moral Turpitude, but If WE Continue to Allow such acts to go on with TOKEN PUNISHMENT or NO PUNISHMENT, WE WILL NOT have any HONEST PEOPLE CONTROLLING OUR COUNTRY. My Life as a Black Person in this Present Day America - More Particularly in Jasper, Alabama, - has been Tremendously SYNONYMOUS to the Portrayal of Life of a True American in "AMERIKA" as was Depicted on the Television Series "AMERIKA". Mr. Chief Justice Rehnquist and Associate Justices let your office continue to bring about boldness - the same Boldness it took President Abraham Lincoln's ADMINISTRATION to begin Eradicating Slavery.

CONCLUSION

* Plaintiff pray that this Honorable Court appoint me a Prudent Experienced Supreme Court Lawyer, to argue my case.

For the foregoing reasons the petition for a writ of Certiorari should be granted.

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 86-7041

F I L E D U.S. COURT OF APPEALS ELEVENTH CIRCUIT JAN 12, 1987 MICHAEL J. CORTEZ CLERK

ALFONSO DARNELL,

Plaintiff-Appellant

versus

THE CITY OF JASPER, ALABAMA,
a municipal corporation,

Defendant-Appellee.

Appeal from the United States District Court for the
Northern District of Alabama

ON PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC
(Opinion November 19, 1986, 11 Cir., 198 , F.2d)
BEFORE FAY, ANDERSON and EDMONDSON, Circuit Judges.
PER CURIAM:
(1) The Petition for Rehearing is DENIED and no member of this panel nor Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 26), the Suggestion for Rehearing En Banc is DENIED.
ENTERED FOR THE COURT:
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH COURT

NO. 86-7041
Non-Argument Calendar

ALFONSO DARNELL,

Plaintiff-Appellant,

versus

THE CITY OF JASPER,
a municipal corporation,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(November 19, 1986)

Before FAY, ANDERSON and EDMONDSON, Circuit Judges.

PER CURIAM:

AFFIRMED: See Circuit Rule 25.[1]

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[1] Appellee's motion to dismiss the appeal is DENIED as moot in light of our disposition.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA JASPER DIVISION

F I L E D DEC 17, 1985 UNITED STATES DISTRICT COURT

ALFONSO DARNELL Plaintiff	)	
-v-	)	NO. CV 77-HM-0125-J
THE CITY OF JASPER, ALABAMA, a municipal corp. Defendant	)	**ENTERED** **Dec 18 1985**

ORDER

The above entitled civil action came on to be heard at the Federal Courthouse in Jasper, Alabama, on Monday, November 25, 1985, commencing at 3:30 p.m. upon the issues of: (1) instatement of plaintiff ALFONSO DARNELL as a member of the Police Department of the City of Jasper, Alabama; (2) entry rank of Darnell at time of instatement, date of instatement; (3) entry compensation or

rate of compensation to be paid plaintiff by the defendant City of Jasper, Alabama; (4) "make whole" fringe benefits; and upon the question of approval and confirmation by the Court of the proposed settlement by the parties herein of the issues of back pay for Darnell and attorney's fees for his counsel of record.

Upon consideration, the Court is of the opinion that the employment history and record of service of Lt. Dennis B. Corbell, presently lieutenant of the 1st shift of the City of Jasper, Alabama, Police Department, Detective Division, serves as an informative employment model for use by the Court in its determination of the issues of plaintiff's entry rank at time of instatement, entry compensation or rate of compensation to be paid plaintiff by defendant at instatement date, and the "make whole" fringe benefits.[1]

Lt. Corbell entered service with the City of Jasper Police Department as an entry level patrolman on January 15, 1973, at a beginning annual salary of $5,798.16. In 1975 his annual compensation increased $6,174.32. On May 6, 1978, he was promoted to the position of sergeant with annual compensation of $11,042.44. On October 30, 1980, Lt. Corbell was promoted from the position of sergeant to the position of lieutenant, 3rd shift, with an increase in annual compensation to $13,070.00. He is now lieutenant of the 1st shift, and his annual compensation has increased to $22,958.00.

Lt. Corbell has contributed $6,650.65 to The Employees' Retirement System of Alabama from his date of membership to March 1, 1975, through November 31, 1985. Total interest credited to Lt. Corbell's account is $1,153.85. The

[1]Plaintiff submitted a written application to the Civil Service Board of the City of Jasper, Alabama, as a patrolman with the Jasper Police Department under date of July 10, 1973. Absent the racial discrimination practiced by the defendant municipality against plaintiff which is shown by this record, Darnell would have been an entry level patrolman with the Jasper Police Department some short period of time following July 10, 1973. The Court draws the reasonable inference and conclusion from the evidence adduced at the November 25, 1985, hearing that Darnell's employment history and record of service with the Jasper Police Department from the summer of 1973 to the present date would have paralleled and equaled Corbell's.

matching employee contributions remitted by the City of Jasper, Alabama, on behalf of Lt. Corbell is $13,094.03. Should the City of

Jasper, Alabama, certify to the Retirement System of Alabama on an employee of the City of Jasper, Alabama, who has earned the same salary as Lt. Corbell, the cost to the employee to recover the noncontributing service would be $10,881.03. The matching employee contributions required from the City of Jasper would be $17,095.49. This calculation assumes a date of payment of January 2, 1986, and is based upon service dating from March 1, 1975, through October 31, 1985.

The Court expressly finds and determines that the above described employment model serves as a fair and equitable guideline for this Court to require to be used and followed by the City of Jasper, Alabama, in its offered instatement of plaintiff Alphonso Darnell under the facts and circumstances of the case. However, the Court will order the offered instatement of Alfonso Darnell as an entry level patrolman in the Police Department of the City of Jasper since he has no experience of consequence as a police officer and will further require plaintiff to avail himself of police officers' training school at the earliest feasible date. It is, therefore,

ORDERED, ADJUDGED and DECREED that the defendant City of Jasper, Alabama, forthwith in writing offer (no later than five (5) days from the date of the within Order) plaintiff Alfonso Darnell's instatement as an entry level patrolman with the Police Department of the City of Jasper, Alabama, effective January 1, 1986, at a beginning annual salary of $22,958.00, and with all vested and accrued seniority benefits equivalent to those presently held and enjoyed by Lt. Dennis B. Corbell, with express provision and direction that as of his beginning employment date (that is, January 1, 1986) plaintiff Alfonso Darnell shall, if he accepts such instatement offer, pay over to the City of Jasper, Alabama, for the immediate transmittal to The Retirement System of Alabama to his account credit the cash sum of $10,881.03 and that the City of Jasper, Alabama, shall forthwith transmit such funds, along with its employee contributions on behalf of plaintiff of the cash sum of $17,095.49, to The Retirement System of Alabama to plaintiff's account credit, thus giving plaintiff an equivalent record of service with the Police Department of the City of Jasper, Alabama, for the period of March 1, 1975, through October 31, 1985. A copy of such instatement offer shall be simultaneously mailed to the Clerk of the Court in Huntsville, Alabama. And it is further

ORDER, ADJUDGED and DECREED that the plaintiff Alfonso Darnell shall, in writing, no later than five (5) days from and following the aforesaid instatement offer of the defendant City of Jasper, Alabama, notify the defendant City of Jasper, Alabama,

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through notification to its duly elected and acting Mayor of his acceptance or rejection of defendant's offer of instatement. If accepted, plaintiff shall timely present himself for duty on January 1, 1986, on the shift to which he has been assigned ready to assume his patrolman duties. And at the earliest feasible date, plaintiff shall avail himself of officers' training school. In the event plaintiff elects to and does reject such offer of instatement, the defendant City of Jasper, Alabama, shall automatically be released and forever discharged of and from any instatement duties or responbilities to plaintiff under the terms of the within order and the instatement mandate of the Eleventh Circuit Court of Appeals. A copy of such acceptance or rejection notification shall be simultaneously mailed to the Clerk of the Court in Huntsville, Alabama. And it is further

ORDERED, ADJUDGED and DECREED that the $84,149.15 settlement agreement of the parties herein representing $40,000.00 attorney's fee for counsel of record for plaintiff in this litigation and $40,149.15 back pay for plaintiff, with interest, be and the same hereby is RATIFIED and CONFIRMED by the Court in all respects and that the defendant City of Jasper, Alabama is DIRECTED and REQUIRED to pay over such $84,149.15 sum in instant funds to plaintiff and his counsel of record immediately upon its receipt of this order. This payment of back pay and attorney's fee is in no manner contingent upon plaintiff's acceptance or rejection of the instatement offer. And it is further

ORDERED, ADJUDGED and DECREED that the injunctive provisions of the June 29, 1982, Order of the Court in the above entitled civil action are permanently continued in full force and effect and that the defendant City of Jasper, Alabama, (and its officers, agents and employees) is further permanently ENJOINED and RESTRAINED from retaliating in any manner against plaintiff Alfonso Darnell for and on account of his EEOC charge of racial discrimination against the defendant municipality and this Title VII litigation. And it is further

ORDERED that plaintiff's post-appeal Motions for Sanctions is declared MOOT by agreement of plaintiff with consent of the Court. And it is further

ORDERED that the costs of this action are taxed against the defendant City of Jasper, Alabama.

DONE and ORDERED this 17th day of December, 1985.

E. B. HALTOM, JR., United States District Judge

Alfonso DARNELL, Plaintiff-Appellant,
v.
CITY OF JASPER, ALABAMA, a municipal corporation, Defendant-Appellee.
No. 82-7255
United States Court of Appeals
Eleventh Circuit

April 23, 1984

Plaintiff, who established that city engaged in intentional discrimination by refusing to hire him as a police officer because of his race in violation of Title VII, appealed from the remedy awarded him by the United States District Court for the Northern District of Alabama, E.B. Haltom, Jr., J. The Court of Appeals, James C. Hill, Circuit Judge, held that (1) District Court, in fashioning remedy for city's refusal to allow plaintiff to take civil service examination in violation of Title VII, erred by refusing to order the city, and the civil service board, which did not appear as a party defendant, to administer a civil service exam to plaintiff; thus, District Court would be required to retain jurisdiction after remand so that it could order plaintiff instated as a city police officer if he passed that examination and met any other valid qualifications of the position, and (2) District Court erred by refusing to award plaintiff back pay for those periods in which his earnings were less than the amount he would have earned as a police officer.

Vacated in part and remanded with instructions.

1. Civil Rights 9.10

Basic purpose of Title VII relief is to make whole victims of unlawful employment discrimination. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

2. Civil Rights 46(4)
Federal Courts 811

Title VII vests broad equitable discretion in federal courts to order such affirmative action as may be appropriate, which includes, but is not limited to, reinstatement or hiring of employees, with or without back pay, or any other equitable relief as the court deems appropriate; moreover, Congress' purpose in vesting a variety of discretionary powers in courts was not to limit appellate review of trial courts, or to invite inconsistency and caprice, but rather to make possible the fashioning of the most complete relief possible. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

3. Civil Rights 46(5)

Reinstatement is a basic element of the appropriate remedy in wrongful employee discharge cases and, except in extraordinary cases, is required. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

4. Civil Rights 46(3)
Federal Courts 951

District court, in fashioning remedy for city's refusal to allow plaintiff to take civil service examination in violation of Title VII, erred by refusing to order the city and the civil service board, which did not appear as a party defendant, to administer a civil service exam to plaintiff; thus, district court would be required to retain jurisdiction after remand so that it could order plaintiff instated as a city police officer if he passed the examination and met any other valid qualifications of the position. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

5. Civil Rights 46(13)

Since a discriminatee has a duty to minimize damages and since alternative employment opportunities will sometimes prove more economically rewarding than the position sought, back-pay awards under Title VII are limited to proven economic loss. Civil Rights Act of 1964, § 706(g), 42 U.S.C.A. § 2000e-5(g).

6. Civil Rights 46(12)

District court, in fashioning remedy for city's discriminatory refusal to hire plaintiff as a police officer because of his race in violation of Title VII, erred by refusing to award plaintiff back pay for those periods in which his earnings were less than the amount he would have earned as a police officer. Civil Rights Act of 1964, § 706(g), 42 U.S.C.A. § 2000e-5(g).

7. Civil Rights 46(12,13)

For purposes of determining entitlement to a back-pay award under Title VII, loss of pay is to be determined by deducting from a sum equal to that which the employee would normally have earned or each quarter or portion thereof, his net earnings, if any in other employment during that period; earnings in one particular quarter should have no effect upon the back-pay liability for any other quarter. Civil Rights Act of 1964, § 706(g), 42 U.S.C.A. § 2000e-5(g).

Robert L. Wiggins, Jr., Birmingham, Ala., for plaintiff-appellant.

Morris W. Savage, Jasper, Ala., for defendant-appellee.

Appeal from the United States District Court for the Northern District of Alabama.

Before HILL and KRAVITCH, Circuit Judges, and MORGAN, Senior Circuit Judge.

JAMES C. HILL, Circuit Judge:

Appellant Darnell proved that the City of Jasper, Alabama, engaged in intentional discrimination by refusing to hire him as a police officer because of his race in violation of Title VII, 42 U.S.C. § 2000e-2(a) (1976). The City does not appeal the findings of a Title VII violation. Darnell, however, appeals the remedy awarded him by the district court. Finding the remedy inadequate to make Darnell whole, we vacate that portion of the district court's judgment and remand for entry of the relief set forth in this opinion.

Commentary by Alfonza Darnell: Finding only Title VII violation by both District and Appeal Courts was and is in Error of Law which according to the llth Circuit is not permitted regardless of how small.

Summary of Errors in June 29, 1982 Order, Findings of Facts, Conclusions of Law and E.E.O.C. Reports Not Caught by Court of Appeals.

Errors Permitted and not picked-up by the 11th Circuit Court of Appeals. The Order is "Clearly Erroneous" for not finding violations of 42 U.S.C. §1981 and §1983 and not going back 2 years under Title VII and not going back 3 years under §1981 and §1983. Did not award commuting expenses nor any other damages which were available under §1981 and §1983 and/or Title VII to satisfy the "Make-Whole" Provisions of the same.

The Introduction was "Clearly Erroneous" in that it didn't state that I filed under 42 U.S.C. §1983.

Facts #3 - #16 are "clearly erroneous" in that the City since my adulthood has never gone strictly by the 1965 ACT. That is from my first hand witness to and from the separate opinion from the E.E.O.C. Investigation and from a past Attorney for the City of Jasper.

Fact #19 - I was partially familiar with the Requirements but was totally unaware of the ACT.

Facts #'s 23 & 26 & 34 are clearly wrong since the City has not gone strictly by the ACT. Fact #26 shows clearly a Frame-Up and fact #34, Some People have been placed on the ELIGIBILITY ROSTER without Having taken the Civil Service Test.

Conclusions of Law is "clearly erroneous" - I was familiar with the part you had to take a test and make at least 70 to be qualified for a J.P.D. job. How could I be familiar with terms and provisions of the Civil Service Act I had not read. E.E.O.C. Reports strongly contradicts the Judge when it stated that " there were 3 caucasians on the eligibility roster without having pass the the civil service test. My Papers which is partially reprinted in this appendix Vehemently Contradicts Judge Haltom's statement pg 20 "From the time plaintiff became aware of the rejection of his application for employment to the time of the bench hearing herein before the Jasper Civil Service Board of the Jasper Civil Commission to inquire, complain or protest the rejection of his application for employment." **Ironically according to the Federal Rules, Attorney T.K. Selman a member of the Civil Service Board, City Attorney Morris Savage and my Attorney Robert L. Wiggins, Jr. each had**

a copy of my Papers (which puts the Judge's statement beyond shame) prior to going to Court in 1982. *COMMENT- This marks some of the beginning acts of FRAUD.*

Excerpt's from the E.E.O.C. Reports. pg 2 "A Negro allegedly contacted during Respondent's back-ground check testifies that he was not contacted by Respondent as a reference regarding Charging Party." ... pg 3 "Analysis of persons hired by repondent from January 1, 1972, to July 15, 1975, indicates that there were 58 persons hired. Of these, 52 (90%) are caucasians and 6 (10%) are Negroes. Records indicated that during the aforementioned period, Respondent hired nine Caucasian patrolmen whose background investigations revealed that some had numerous traffic convictions plus bad character references, deliquency in the payment of bills to aggravated assault. Records further indicate that seven of the above - mentioned Caucasians are presently employed by Respondent. " ... " Respondent testifies that they have no formal recruiting procedures and that word-of-mouth recruiting is used. Further, Respondent requires a high school education or the GED equivalent to be eligible for employment. " ...pg 4 "Records indicate that there are three Caucasians whose names do not appear on Respondent's civil service test list; however, their names appear on Respondent's eligibility roster."

Current Notarized Letter Substantiating E.E.O.C. Reports.

TO WHOM IT MAY CONCERN: April 10, 1987

I, Sam Harris, a Black Police Officer with the City of Jasper, as Sergeant of the Third Patrol Shift, did not make any allegations against Alonzo Darnell in any form.

SH:ab

Sgt. Sam Harris

Sam Harris Came before me Melvin G. Harris, Jr. April 11, 1987.

A copy of my letters sent by registered mail and this above letter is on record at the Clerk's Office of the Supreme Court and copies will be given to Jasper City Hall

BIRMINGHAM BAR ASSOCIATION
109 North 20th Street, Second Floor, Birmingham , Alabama
35203-3604 • Telephone: (205) 2551-8006

January 26, 1987
Mr. Alfonza Darnell, 2901 Euclid Avenue Jasper, Alabama 35501
RE: Legal Malpractice Attorney

Dear Mr. Darnell :

As per our telephone conversation today, I am forwarding to you the names of two (2) attorneys in the Birmingham area who may consider handling a legal malpractice case.

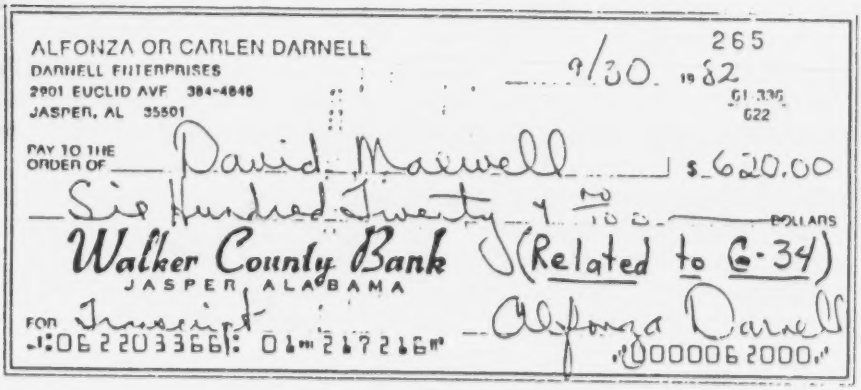
William M. Dawson, Jr., 210 Frank Nelson Building Birmingham, Alabama 35203 (205) 323-6171
Mark Elovitz, 1420 Bank for Savings Building, Birmingham, Alabama 35203 (205) 326-3757

Even though there are over 2,000 members of the Birmingham Bar Association, these are the only two (2) attorneys we are aware of who might consider handling a case of this nature.

Sincerly,

Mary Nell McGough
Director of Lawyer Referral

MM/dmt


ALFONZA OR CARLEN DARNELL
DARNELL ENTERPRISES
2901 EUCLID AVE 384-4648
JASPER, AL 35501

265
9/30 19 82
01-336
622

PAY TO THE ORDER OF David Maxwell $ 620.00
Six Hundred Twenty & no/100 DOLLARS
Walker County Bank
JASPER, ALABAMA
(Related to C-34)
FOR Insurance
Alfonza Darnell
⑆062203366⑆ 01 217216
⑈000006 2000⑈

Alfonza Darnell
2901 Euclid Avenue, Jasper, Alabama 35501 - 384-4646

Mr. James B. Vincent, 2808 9th Avenue, Jasper, Alabama 35501

Dear Mr. Vincent:

Your testimony in the case Alfonza Darnell v City of Jasper, Alabama still remains on the Federal Court Records as you stating Negative Recommendations (Concerning Alfonza Darnell becoming a Jasper Police Officer) the following:

"A second Jasper black police officer was interviewed in regard to the plaintiff and stated that he did not find him to be honest and trustworthy; that he had a bad attitude; that few people liked him; that he did not think that he would be good as a police officer; that he thought the plaintiff needed psychiatric help and that he was a member of the National Assocation for the Advancement of Colored People." The above was taken from Judge Haltom's Findings of Fact in the previously mentioned case. Although, according to the E.E.O.C. investigator Jonathan Gary one Black Police Officer who at the time of his investigation was still a police officer contradicted a Negative Recommendation which is still considered to be Factual in that it has never been Stricken from the Court records.

Mr. Vincent I, Alfonza Darnell humbly ask you to put in the form of an Affidavit ADDRESSED TO ALFONZA DARNELL Stating Precisely JUST What is the Truth in those above Mentioned ALLEGATIONS. I Must Make a PERSONAL APPEARANCE In The SUPREME COURT OF THE UNITED STATES CLERKS OFFICE No Later than MONDAY, April 13, 1987.

Mr. Vincent this Communication is of the Utmost Importance and should be Adhered to within 24 Hours after you Receive this letter. This Case could well have a United States Wide EFFECT on ALL People Mistreated Intentionally by Local Governments; *It is of the Most PARAMOUNT NECESSITY for ALL POOR PEOPLE, Especially Blacks.*

SINCERELY,

Alfonza Darnell

Appendix B May 1, 1985 Order; December 30, 1983 Letter; and December 24, 1983 Letter and January 6, 1986 Intimidation Proceedings

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA JASPER DIVISION

ALFONSO DARNELL	)	
Plaintiff	)	
-v-	)	NO. CV 77-HM-0125-J
CITY OF JASPER, ALABAMA	)	
Defendant	)	

ORDER

On joint oral motion of plaintiff Alphonso Darnell and defendant City of Jasper, Alabama, it is

ORDERED that the May 2, 1985 SHOW CAUSE HEARING (Scheduled to commence at 5:00 P.M. on the Third Floor (courtroom to be designated) of the Federal Courthouse in Birmingham, Alabama) in the above entitled civil action is hereby CONTINUED to be reset.

DONE and ORDERED this lst day of May, 1985.

FILED
MAY 2, 1985
ENTERED
May 3, 1985
U.S. District Court

E. B. Haltom, Jr.
United States District Judge

5/1/85 Counsel were called. SM

UNITED STATES DISTRICT COURT
December 30, 1985

Robert L. Wiggins, Jr., Esquire
Jerry K. Selman, Esquire
Morris W. Savage, Esquire

RE: Darnell v. City of Jasper CV No. 77-HM-0125-J

Gentlemen:

Enclosed is copy of handwritten letter from Mr. Darnell received by the Clerk of this Court on 12/26/85 and brought to my attention this date.

I shall expect a written report on the status of the instatement order by return mail or telephone call.

Sincerely yours,
E.B. Haltom, Jr.

Enclosure

Alfonza Darnell
12/24/85

United States District Court
Proves who initiated Ex-Parte Proceedings 1/6/86
F I L E D DEC 26, 1985 United States District Court
Dear Clerk:

I would like to request a meeting with Judge Haltom along with the City of Jasper and/or its representatives concerning the settlement arrangements of my case. My case # is CV 77HM0125J. I am personally making this request because my attorney may or may not make it for me therefore I am making the request while I'm visiting my in-laws. I haven't seen your order as yet but from all the understanding that I perceive it appears that there are some facts I in my case which have not been considered.

CV HM0125J

Sincerely,
Alfonza Darnell

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA JASPER DIVISION

ALFONSO DARNELL,)
Plaintiff,)
vs.) Case #CV 77-HM-0125-J

THE CITY OF JASPER, ALABAMA, a Municipal Corporation, Defendant.	)	*Case #CV 77-HM-0125-J Huntsville, Alabama between 12:15 & 2:15 P.M.1/6/86 Alfonza Darnell*

* * * * *

TRANSCRIPT OF PROCEEDINGS
HELD BEFORE THE HONORABLE E. B. HALTOM, JR.,
UNITED STATES DISTRICT JUDGE

APPEARANCES:
I began as lead counsel 1/16/86 and officially Pro Se 2/21/86
Alfonza Darnell
For the Plaintiff: MR. ALFONSO DARNELL, pro se

Court Reporter: David W. Odom, RPR-CSR

PROCEEDINGS

THE COURT: All right. The matter before the Court on this particular occasion is the civil case of Darnell vs. The City of Jasper, Alabama, which is docketed as CV77-HM-1025J.

Mr. Alfonso Darnell, the plaintiff, has come to the Federal Courthouse here in Huntsville desiring to talk to the Court about the recent instatement order that was rendered by the Court in this case pursuant to the mandate of the United States Court of Appeals for the Eleventh Circuit. And Mr. Darnell is represented of record in this case by Attorney Robert L. Wiggins, Jr. and Attorney Michael Quinn, both of Birmingham, Alabama.

I'm not here to take any evidence this afternoon, Mr. Darnell. And you may state of record the purpose of your visit here to Huntsville in the absence of your lawyers, who have done you such a wonderful job in this litigation over a long period of time, and with whom you apparently now disagree. So, you go ahead and make whatever statement you want to make.

MR. DARNELL: Well, Judge, first, I would like to say that my intentions with coming to Huntsville were not particularly to see you today. My intentions were to pick up a copy of your Order which I had never received, and I was told that I would receive before December 16th. I had certain days to make up my mind--to make up my mind what I wanted to do. So, until today, as of a few minutes ago, I first saw your Orders. I didn't know you was even here. So,

I was coming to get what information I could from your clerks, wherein, I wouldn't prejudice--prejudice myself with you without the City being present.

THE COURT: Mr. Darnell, are you saying to this Court that your lawyers refused to give you a copy of the Court's Order? They report to me that they've discussed this Order in detail with you. Now, is it your position that that's an incorrect statement that these lawyers have made to the Court?

MR. DARNELL: Well, they gave me some figures in here and they were not precise, and I didn't get a copy of the Order. Plus, I couldn't--

THE COURT: Well, this Court was under no obligation to send you an order. We deal with lawyers.

MR. DARNELL: But the point, Judge, is that things have been cited to law by you -- I don't think you have privilege to know the entire situation which has happened.

THE COURT: You have been represented by two of the most able lawyers in Employment Discrimination in the State of Alabama. And you apparently don't agree with the Court's decision, which is your privilege. You don't agree with your lawyer's opinion, which is your privilege. But I'm not here to give you any advice. You just go ahead and do what you want to do.

MR. DARNELL: Well, Judge, I would -- like I say, I came in not with intentions of seeing you. But Iwas trying to get other information --

THE COURT: You have been talking to my law clerk in expressing your disagreement with the Court's opinion in this case, which is your privilege. But I don't know what you would expect this Court to do anymore than what is done, Mr. Darnell.

I hereby certify that the foregoing is a true and correct transcript from the record of proceedings in the above entitled matter.
David W. Odom

Appendix C Defendant Letters September 28, 1985; October 14, 1985; November 16, 1985; December 20, 1985; and December 20, 1985

SELMAN, BEAIRD & SELMAN
ATTORNEYS AT LAW
September 28, 1985

Hon. Robert Wiggins

RE: Alfonso Darnell vs. City of Jasper

Dear Bob:

Sometime back you and I spoke over the telephone and it was my understanding that we had the Alfonso Darnell case settled for a figure of $84,149.15 which consisted of $40,000 for your attorney fee plus the back wages for Darnell with interest. I confirmed this offer to you by letter dated August 20, 1985. I haven't heard from you since but I anticipate that Judge Haltom will be wanting to know before long why we haven't concluded this matter.

If you're having difficulty with Mr. Darnell or whatever the problem might be, please let me know as soon as possible and let's get this matter resolved before we anger the Judge.

RECEIVED OCT 4, 1985
Office of E.B. Haltom, Jr.
Judge,U.S. District Court

Sincerely,
SELLMAN, BEAIRD &SELMAN
Jerry K. Selman

SELMAN, BEAIRD & SELMAN
ATTORNEYS AT LAW
October 14, 1985

RECEIVED OCT. 15, 1985 OFFICE OF JUDGE HALTOM
Hon. Bob Wiggins, Jr.
RE: Darnell vs. City of Jasper, Alabama

Dear Bob:

The City Council is ready to submit you a check in the amount of $84,149.15 in full settlement of Mr. Darnell's money damages both for missed wages and attorney fees in this case. I appreciate your phone call accepting this offer the other day.

In light of the delicacy of this matter, I would like to propose this suggestion; namely, that we submit to Judge Haltom that we have settled the monetary issues including attorney fees for $84,149.15 but that we have been unable to resolve the issues of placing Mr. Darnell on the Police Force and would like to request his guidance in same. I would think that it would be good to hold an informal hearing in the Judge's chambers wherein Judge Haltom could approve our settlement and order the City to hire Mr. Darnell to the appropriate position with the Police Department.

If you think well of this or have an alternative suggestion, please let me know. I would like to conclude this matter as quickly as possible.

Sincerely,
SELMAN, BEAIRD & SELMAN
Jerry K. Selman

cc: Judge Haltom

SELMAN, BEAIRD & SELMAN
ATTORNEYS AT LAW
November 16, 1985
RECEIVED NOV 18, 1985 OFFICE OF E.B. HALTOM, JR. JUDGE, U.S. DISTRICT COURT

Honorable E. B. Haltom, Jr

Re: Alfonso Darnell vs. City of Jasper
Case No. CV-77-HM-0125-J

Dear Judge Haltom:

Bob Wiggins and I have settled this case for the total case sum of $84,149.15.

The City is ready to pay Mr. Darnell and dispose of this matter as quickly as possible.

I am enclosing a copy of a letter which I wrote to Bob Wiggins a few weeks back, a copy of which I sent to your office confirming the settlement agreement and suggesting that we hold an in-chamber meeting with you and that we get your approval of the settlement prior to the City paying the above sum. There is still the question remaining of the City being ordered to put Mr. Darnell on the police force. The City Council would prefer that it be done by Court order, as opposed to consent decree and we would also request your guidance as to which rank level, such as patrolman or lieutenant, etc. and which pay scale he should be started at.

At your convenience please let us have approximately 30 minutes to present the monetary settlement to you and get your direction as to the other matter.

I look forward to hearing from you.

Sincerely,
SELMAN, BEAIRD & SELMAN
Jerry K. Selman

cc: Honorable Bob Wiggins

SELMAN, BEAIRD & SELMAN
ATTORNEYS AT LAW
DECEMBER 20, 1985

Honorable Charles M. Quinn

RE: Darnell vs. City of Jasper

Dear Mike:

I received Judge Haltom's order this monring.

Enclosed is the City's check in the amount of $84,149.15 as per the order.

Also enclosed is the City's letter to Mr. Darnell. I do not have an address for him and I know he will get it through you.

I hope you have a good Christmas Season.

Sincerely,
SELMAN, BEAIRD & SELMAN
Jerry K. Selman

Enclosure
cc: Honorable E. B. Haltom, Jr.

CITY OF JASPER
December 20, 1985

RECEIVED DEC 31, 1985
United States District Court
Northern District of Alabama
James E. Vandegrift, Clerk

FILED JAN 6, 1985
United States District Court
Northern District of Alabama
James E. Vandegrift, Clerk

RE: Darnell vs. City of Jasper

Dear Mr. Darnell:

Pursuant to the order of Honorable E. B. Haltom, Jr., dated December 17, 1985, the City of Jasper, Alabama, hereby offers to you instatement as an entry level patrolman with the Police Department of the City of Jasper, Alabama, effective January 1, 1986, at a beginning annual salary of $22,958.00 and with all vested and accrued seniority benefits equivalent to those presently held and enjoyed by Lt. Dennis B. Corbell with the express provision and direction that as of his beginning employment date (that is, January 1, 1986), if you accept such instatement offer, you will pay over to the City of Jasper, immediately, for immediate transmittal to the Retirement System of Alabama to your account credit the cash sum of $10,881.03 and the City of Jasper, Alabama, shall forthwith transmit such funds along with the City contribution on your behalf in the amount of $17,095.49 to the Retirement Systems of Alabama to your account credit, thus giving you an equivalent record of service with the Police Department of the City of Jasper, Alabama, for the period of March 1, 1975, through October 31, 1985.

Sincerely,
City of Jasper, Alabama
Mayor Penn L. Woods

cc: Clerk of the U.S. District Court
Huntsville, Alabama

Appendix D Papers Contradicting Judge Haltom's Statement "I did not ask for help from August 74 thru June 82

Papers. Printed in 1977 or 1978 (Contradicts Judge Haltom's Findings of Fact and Conclusions of Law) *(Italics represent comments not in original Papers)*

These reasons suppose to be the sole reasons why Jasper Police Department refused to hire me:

1. Plotting to kill Policeman
2. Troublemaker
3. Collecting Money
4. Part of a Liberation Movement
5. Bootlegging
6. Not Honest or Trustworthy
7. No Good

What I want from the City of Jasper:

1. Backpay from the time of my initial attempt for employment at the Jasper Police Department to the present.
2. Employment with J.P.D. and given consideration for promotions based on the most rapidly promoted employee as well as the pay increases involved in the aforementioned promotions from the date I first applied.
3. Seniority credit from the date of my application.
4. I would like an additional $50,000.00 in cash as a monetary settlement in my case, taxes paid. Why I believe I am entitled to the above sum:
   a. Because my health has deteriorated more rapidly than normal.
   b. Humiliation
   c. Perhaps an ulcer
   d. Mental stress
   e. Nervousness
   f. Unjustifiable slander
   g. Self-confidence bruised
   h. Past position as Chief of Safety Patrol in High School was not recognized and I worked directly with the Police Department.
   i. Refusal of the J.P.D. to recognize a past Security Clearance with Heavy Military Electronics Department of General Electric Company.

These People I asked directly for help but to my dismay no one tried to help me:

1. The American Civil Liberties Union (Nation & State Organizations)
2. Congressman Tom Bevill
3. Mayor Jack Moore Brown
4. State Rep. Bobby Tom Crowe
5. District Attorney Charles Baker
6. Attorney T. K. Selman (civil service board member)
7. City Attorney Morris Savage
8. Attorney Joel P. Robinson, my ex-lawyer
9. State Senatory Robert Wilson
10. Ex-Commissioner Nelson Clark
11. Commissioner Billy Trotter
12. Commissioner Harry Sherer
13. Ex-District Attorney Gerald Colvin
14. Ex-Chief Gant
15. Attorney Charles Wiggins
16. Chief Leo Murray
17. The Chamber of Commerce
18. Shug Wilson (civil service board member)
19. Millard Kilgore (civil service board member)
20. Steve Suitts, ex-Director Alabama A.C.L.U.

.....There can be but one thought in my mind and that is even in Federal Court I will not get a fair trial because of tampering. *(Comment: This did not intend to include the Supreme Court but it does mean that when I wrote this between 1977 & 1978 I sincerely beieved that it would probably go to the Supreme Court because of the City's Power. They still Believe they are Beyond the Law.)*

I know without a doubt that there are some people in Jasper or one person in Jasper wherein he, she or they can touch any organization, company group or person no matter what their size may be as if this person or persons have a magic wand for causing hardships to those who don't go along with the System.

4. Congressman Tom Bevill, a resident of Jasper, Alabama has been contacted on several occasions because it has and still is very difficult for me to obtain employment in the City at a level commensurate to my educational background. Although I'm still not employed in Jasper because of some of our distinguished citizens of Jasper. Tom was contacted pertaining to my charges against the city of Jasper. But because I'm very fond of my hometown despite of what has happened to me, I wanted to keep down talk concerning Jasper and its citizens. I think Tom is a very seasoned member of the Appropriations Committee in Washington, D.C.

These People Knew Of My Problems:

1. N.A.A.C.P. Jasper and Birmingham
2. Howart T. Wells, Deputy Director Comm. Act. Agc.
3. Don Welis, school instructor
4. J. A. Cox, ex-school instructor
5. Pastor J. B. Vincent
6. Attorney Carl Elliott, Jr.
7. Attorney Caine Orear
8. Judge Mayhall
9. Judge Brotherton
10. Judge Nation
11. Assistant D.A.
12. Pastor Ray Dutton
13. Judge Beaird
14. Attorney Stephens
15. Attorney Jim Beech

Taken From lst Appeal Reply Brief to Eleventh Circuit

The case was tried under § 1981, § 1983 and Title VII. For these reasons, the defendant's argument that the action was "basically a Title VII case" is not only factually incorrect but is without any legal foundation. The three causes of action are separate and independent.

5/7/86 Daily Mountain Eagle Newspaper Shows Present & Past Violations of Civil Service Act:

City board hears officers' queries.

Attorney Joel Robinson, who represents the officers, said the Police Department treated the officers unfairly because civil service rules were ignored.

"The fact that these are long-standing procedures won't make it legal," Robinson said. "In fact, violating the rules is against the law, and a misdemeanor."

A table of organization, they said, states that the Jasper Police Department is supposed to have three captains, though the force has had only one for more than a year.

Selman said the Police Department has interpreted the rules to mean that positions didn't have to be filled if the money wasn't there.

Robinson argued, however, that the rules specifically state that the department must have three captains.

Appendix E Bad Faith Shown in Proceedings and Questions Presented in Brief filed by Alfonza Darnell

Proceedings & Civil Docket Continuations

Mr. James E. Vandegrift, Clerk, U.S. Dist. Court
Mr. Spencer D. Mercer, Clerk, U.S. Court of Appeals, 11th Circuit

Date	NR.	
1977		
Jan. 28,	1	Complaint filed - gd
Aug. 5,	9	Interrogatories of plff propounded to deft Leo Murray, filed - cs - gd
Sep. 19,	10	Motion of plffs for order compelling answer to interrogatories by defts, filed - cs - g
Nov.15,	12	Request of plff for production of documents for defts filed cs snh
1978		
Jan. 25,	13	Motion for plff for order to compel production by deft, City of Jasper, filed-cs-snh -- SEE ORDER DATED 02/22/78
Feb 23,	15	ORDER dated February 22, 1978 that the motion of plff to require production is GRANTED in that defendants are to produce the documents and that the request of plff for the award of reasonable expenses is overruled filed and entered (McFadden) cm-snh
1979		
July 20,	26	Interrogatories (third) of plff porpounded to defendant and request for production, filed-cs-snh
July 20,	27	Motion of plff to compel answers to interrogatories, filed-cs-snh - SEE ORDER DATED 09/21/79
Sep 21,	30	ORDER dated September 19, 1979 that deft shall make available to plff all personnel files of applicants to and employees of the Police Department of City of Jasper; deft shall be allowed to delete salary information; deft shall answer interrogatory #5 of plff's first interrogatories; deft shall answer interrogatory #29 of plff's first interrogatories; filed and entered (McFadden) cm-snh

1982

Jun 29,	45	MEMORANDUM OPINION dated June 29, 1982 (Haltom), filed. Entered June 29, 1982, cm, bth
	46	ORDER dated June 29, 1982 - ORDERED that Declaratory judgement is ENTERED determining that deft City of Jasper did intentionally engage in an unlawful employment practice by failing to hire plff; plff's claim of entitlement of back pay from deft is DENIED, with prejudice; plff's prayer to hire plff as a police officer is DENIED, with prejudice; deft City of Jasper are ENJOINED and RESTRAINED from failing or refusing to hire or from discharging any individual as a police officer because of such individual's race or color; plff is AWARDED a reasonable attys fee; costs of this case are taxed against deft. (Haltom), filed. Entered June 29, 1982, cm, bth
Jul 09,	47	Motion of plff to Alter and Amend Judgment, filed, cs, bth - DENIED 7/15/82, - (Haltom), filed. Entered July 15, 1982, cm, bth

1984

May 30,	51	Certified copy of JUDGMENT, USCA, dated 4-23-84 and issued as mandate 5-18-84 with slip Opinion and Bill of Costs attached, that the Judgment of the District Court is VACATED in part and this cause is REMANDED with instructions; and that deft-appellee pay to plff-appellant the costs on appeal to be taxed by the Clerk-USCA filed (HILL,KRAVITCH & MORGAN); record received -dpb
June 15,	53	MOTION of plff to Appoint Magistrate as Special Master, filed, cs, bth
June 18,	54	ORDER that plff's motion for appointment of a U.S. Magistrate as a Special Master is DENIED, filed (HALTOM); entered 06/19/84, cm, bth
July 03,	57	Request of plff for production of deft, filed, cs, djg
Aug 15,	58	MOTION of plff to compel deft to produce, filed, cs, djg - See Order of 8/22/84.
Aug 22,	59	ORDER that plff's motion to compel is GRANTED; further that deft City of Jasper produce for inspection and copying the documents described in plff's request; further that deft's counsel shall

within 7 days report to the court in the form of a Status Report Pleading the action taken by deft, filed (HALTOM); entered 08/22/84, cm, bth

Oct 09, 61 MOTION of Morris W. Savage to withdraw as attorney for deft City of Jasper, filed, cs, djg- See order of October 9, 1984 denying motion.

Nov 01, 63 Notice of Appearance of Jerry K. Selman for deft City of Jasper, filed, cs, bth

1985

APR 03, 64 ORDER that in response to plff's motion for Sanctions that a SHOW CAUSE hearing is scheduled for APRIL 17, 1985, at 2:00 p.m. in the Federal Courthouse in B'ham at which time and place Mayor Penn Woods in his official capacity as Mayor of City of Jasper, Al; and City Counselmen Billy Trotter, Thomas Meyers, Ellis Haynes, Paul McLaughlin and Paul Brignet in the respective official capacities as Members of the City Council of the City of Jasper shall each PERSONALLY APPEAR and SHOW CAUSE why they should not be held in contempt; further that the October 9, 1984 motion of Morris Savage to withdraw is DENIED; further that the City of Jasper shall retain Atty Savage as lead counsel in this civil action until further termination of this litigation; Atty Selman is welcome to remain as co-counsel for the City of Jasper; filed (Haltom); entered 4/3/85, cm, bth

MAY 02, 66 ORDER that the May 2, 1985 Show Cause Hearing is CONTINUED to be reset, filed (Haltom); entered 5/3/85, attorneys all telephoned but Sidney Mosley regarding continuance, bth

DEC 17, 70 ORDER that deft City of Jasper, no later than five days from date of this order plff's instatement as an entry level patrolman with the Police Dept effective Jan 1, 1986 at a salary of $22,958.00 and with all vested and accrued seniority benefits presently held by Lt. Corbell, as more fully set out in order; further that the $84,149.15 settlement agreement representing $40,000. atty fees for plff and $40,149.15 back pay for plff with interest is RATIFIED and CONFIRMED by the court in all respects and the City of Jasper is DIRECTED & REQUIRED to pay $84,149.15 in instant funds to plff; City of Jasper is permanently ENJOINED & RESTRAINED from retaliating against plff for and

on account of his EEOC charge; further that plff's post-appeal motions for Sanctions is MOOT by agreement of plff and consent of the court; further that costs are taxed against deft City of Jasper, filed (Haltom); entered 12/18/85, cm, bth

DEC 26, 71 Letter from plff requesting meeting with Judge, filed, bth

Comment Alfonza Darnell - Misleading- my quote. (Should have said with Judge, City & Their Representatives.)

1986

JAN 06, 73 Letter dated 12/20/85, from City of Jasper, AL to Mr. Darnell, filed, djg

JAN 16, 75 Notice of appearance of Alfonso Darnell as lead counsel, filed cm, djg

JAN 17, 76 ORDER that the handwritten letter of plff bearing the date of 01/16/86 is STRICKEN from the court file, filed (HALTOM); entered 01/17/86, cm, djg

JAN 17, 77 Notice of appeal of plaintiff from the order entered December 18, 1985 filed - snh

JAN 22, Certified copy of notice of appeal, certified copy of docket entries and order appealed from w/transmittal letter to USCA; copies to attorneys of record - snh

Eleventh Circuit #86-7041 BRIEF FOR PLAINTIFF-APPELLANT
By: Alfonza Darnell

I. QUESTIONS PRESENTED

1. Whether the district court erred or abused its discretion by mere Requesting and not REQUIRING the defendants and their attorneys have a FACE TO FACE SETTLEMENT CONFERENCE with plaintiff and his attorneys?

2. Whether the district court erred by having a closed meeting with me-plaintiff in the courtroom with a Court-Reporter present and not making the notes of this meeting available?

3. Whether the district court erred or abused its discretion by ignoring plaintiff's letter dated 12/24/85?

4. Whether the district court erred or abused its discretion by its award of ENTRY LEVEL PATROLMAN JOB without any provisions for advancement thus subjecting plaintiff to even more Racial Discrimination in lieu of MOST INTENTIONAL RACIAL DISCRIMINATION ACKNOWLEDGEMENTS?

5. Whether the district erred or abused its discretion by the it directed this case or did the CITY OF JASPER direct this case?

6. Whether the district court erred or abused its discretion by Conspiring with the Attorneys on both sides and/or were Racially motivated as has been and still is the City of Jasper?

7. Whether the district court erred or abused its discretion by not recognizing the fact that the city had hired by word of mouth and placed people on the eligibility roster without first taking and passing the civil service test as revealed by E.E.O.C.

8. Whether the district court erred or abused its discretion by not requiring the city to write two checks or requiring plaintiff's previous attorney to give up the interest money as was outlined in several letters written by the City's Attorney and as was told by Judge Haltom's law clerk?

9. Whether the district court erred or abused its discretion by not sending a copy of the Final Order directly to Plaintiff in lieu of the time Plaintiff had to render a decision?

10. Whether the district court erred or abused its discretion by allowing the city to not have to send a letter directly to Plaintiff again, in lieu of the time Plaintiff had to make a decision?

11. Whether the district court erred or abused its discretion by failing to correct mistakes which may have a negative effect on others claiming Racial Discrimination in Jasper?

12. Whether the district court erred or abused its discretion by taking much too long in rendering it's decision?

13. Whether the district court erred or abused its discretion by giving Plaintiff (5) five days to make a decision to give up a twelve year job plus a 40% cut in pay to an ENTRY LEVEL JOB proned to more Discrimination without seeing it in writing prior to ACCEPTING?

CONCLUSION

I made futile attempts to get others counsel, but when they learned who my opponents were - they were not available. Therefore, I had no choice but to go Pro Se.

Appendix F J.K. Selman First Brief and Minimum Relief Mandated April 23, 1984

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH COURT

No. 86-7041

ALFONZA DARNELL,

Plaintiff-Appellant,

versus

THE CITY OF JASPER,
ALABAMA, etc.

Defendant-Appellee.

APPELLEE'S BRIEF

JERRY K. SELMAN
SELMAN, BEAIRD & SELMAN
ATTORNEYS FOR APPELLEE

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STATEMENT OF ISSUES

Counsel for Appellee, City of Jasper, Alabama, after careful consideration and reading of Appellant's brief is unable to determine any justiciable issues presented for this Court's consideration.

This Counsel has tremendous respect for Alfonza Darnell. And following statements in regard to the issues of this appeal are said with total respect for Mr. Darnell and certainly not to detract therefrom in any fashion.

As previous stated above, this Counsel can find no justiciable issues presented in Mr. Darnell appeal for this Court to consider. The matters presented by Mr. Darnell are a rehash or restatement of his contentions that he has been discriminated against not only by the City of Jasper, Alabama but numerous other persons that he has come in contact with during his adult life. Frankly, Mr. Darnell who is a very capable individual has enjoyed this current litigation which has gone on since 1977 and apparently just hates to see the controversy finished even though he won and the City of Jasper was ordered to offer him a job as a City Policeman and also that he be paid those sums of money that he might have lost during the period of time that he was prevented from being a City Policeman.

Mr. Darnell seems to say that his lawyers, the City's lawyers and the judge held secret meetings and sold him out. Of course, this is simply not true. Mr. Darnell was welcome and invited to each and all settlement conferences in the final states of this matter and was represented there by Counsel who were speaking on behalf of Mr. Darnell. Mr. Darnell did not chose to attend any of the hearings for whatever reasons he had but apparently now complains thereof in an effort to keep this matter alive even though he has been paid over $80,000.00 dollars and offered a job which he declined.

Mr. Darnell complains that he should have been offered a job as assistant police chief instead of a job as an entry level patrolman (even though at a Lieutenant's pay scale) and required to attend regular policy academy training.

It was in fact Mr. Darnell's attorneys at the settlement conference that proposed to the Court that he be offered a job to begin January 1, 1986 as an entry level patrolman and that he attend the police academy (due to his inexpereince as a policeman); the Court took the recommendation of Mr. Darnell's Counsel and so ordered.

Mr. Darnell chose not to attend the settlement conference and authorized his Counsel to speak on his behalf. Mr. Darnell was well represented by the Honorable Robert Wiggins and Honorable Michael Quinn who worked miracles on his behalf.

Mr. Darnell has nothing from which to complain; consequently, no justiciable issues are presented for the Court to consider in this appeal.

STATEMENT OF THE CASE

On January 28, 1977 Alfonza Darnell filed suit in the United States District Court, Northern District of Alabama, alleging that the defendant, City of Jasper, did intentionally engage in an unlawful employment practice by failing to hire the plaintiff because of the plaintiff's race or color.

Answer was filed by the City of Jasper and the issues were joined. The usual preliminary motions and hearings were held and on September 23-24, 1981, trial was held before the Honorable E. B. Haltom, Jr. sitting without jury in Jasper, Alabama. The matter was taken under advisement and on June 29, 1982 a declaratory judgement was entered determining that the defendant, City of Jasper, did intentionally engage in an unlawful employment practice by failing to hire the plaintiff; plaintiff's claim of entitlement for back pay from the defendant was denied, with prejudice; plaintiff's prayer for instatement as a police officer was denied, with prejudice; defendant City of Jasper was enjoined and restrained from failing or refusing to hire or from discharging any individual as a police officer because of such individual's race or color; plaintiff was awarded a reasonable attorney's fee; and cost of the case were taxed against the defendant.

From this decision the plaintiff Alfonza Darnell appealed and on May 30, 1984, a certified copy of judgement, USCA, dated April 23, 1984 and issued as mandate on May 18, 1984 with slip opinion that the judgement of the District Court is vacated in part and this cause was remanded with instructions, was filed.

On June 1, 1984 an order was issued by the Honorable E. B. Haltom, Jr. that the defendant City of Jasper, Alabama and the Civil Service Board of the City of Jasper within thirty (30) days from this date objectively administer or cause to be objectively administered a standard Civil Service Board of the City of Jasper Civil Service Exam to the plaintiff Alfonza Darnell. This was done and Mr. Darnell passed the examination for patrolman.

Considerable negotiation was held between Attorneys for plaintiff, Alfonza Darnell, and Attorneys for the defendant, City of Jasper, prior to said hearing. A settlement agreement was reached between the parties and their Counsel prior to the November 25, 1985 bench hearing (the purpose of said hearing was to report such settlement). On November 25, 1985 the above described conference/hearing took place. All interested parties were either invited or ordered to attend.

All Attorneys and parties were present with the exception of plaintiff Alfonza Darnell who either refused to appear or had previous more important commitments to make. Attorneys for plaintiff Alfonza Darnell made known to the Court that all remaining issues were settled and that the agreed settlement was as follows:

1. That Alfonza Darnell be offered instatement as an entry level patrolman with the police department of the City of Jasper effective January 1, 1986 at a salary of $22,958.00 per year and with all vested and accrued seniority benefits presently held by Lieutenant Corbell.

2. That the plaintiff receive of the defendant a settlement of $84,149.15 representing a $40,000.00 in Attorney fees for plaintiff and $44,149.15 as back pay for plaintiff with interest.

NOTE: It was in fact the counsel for Mr. Darnell that recommended that he be instated as an entry level patrolman but with the pay scale of Lt. Corbell.

Mr. Darnell was to inform the City of Jasper right away as to whether or not he wanted to accept the job on January 1, 1986.

Mr. Darnell was then employed as a coal miner and had been for many years starting shortly after filing this suit in 1977. His income as such was considerably more than it would be as a police officer.

Mr. Darnell did not respond to the instatement order (i.e.; whether or not he would accept the offered job to begin January 1, 1986) arising from the November 25, 1985 settlement conference; but sent word to the Judge thorough his Attorneys that he would not consider such offer until it was made in writing by the City itself.

To that end Honorable E. B. Haltom, Jr. entered an order dated December 17, 1985 setting forth the provisions of the November 25, 1985 settlement conference/bench hearing and in this order directed the City of Jasper to write a letter to Mr. Alfonza Darnell offering him instatement as a patrolman.

On December 20, 1985 at the direction of Judge E. B. Haltom, Jr. the defendant City of Jasper issued to Alfonza Darnell, plaintiff, a letter offering instatement to Mr. Darnell on January 1, 1986 to the position of entry level patrolman at the salary and with the benefits outlined above.

Mr. Darnell did not respond to the letter and on January 3, 1986 Attorney Robert L. Wiggins, Jr. who represented plaintiff Alfonza Darnell wrote a letter to Judge Haltom stating that Mr. Darnell had constructively turned down the offer of instatement. On January 17, 1986 Alfonza Darnell taking the lead in his case filed this appeal.

STATEMENT OF JURISDICTION

This is an appeal from the final judgment of a district court of the United States pursuant to 28 U.S.C. Section 1291.

The Only Court Records a person had to go by to determine Backpay

The applicable NLRB interest rates are ...

July 1, 1974 to December 31, 1977 - 7%
January 1, 1978 to December 31, 1979 - 6%
January 1, 1980 to December 31, 1981 - 12%
January 1, 1982 to December 31, 1982- 20%
January 1, 1983 to December 31, 1985 - 16%

Taken from 7/3/84 Motion for Entry of Judgement for the Plaintiff.

Shows Minimum Backpay Mandated

Year:	Backpay Amount
1973	$2500.00
1974	$9116.00
1977	$1688.00
1978	$4577.03

Taken from Pg. 27 & 28 Plaintiff's Brief Filed 12/20/82

$53,989.05 = The amount of Backpay which was due Plaintiff using the only figures one can work with that has been made part of the COURT RECORDS.

(A Job and $53,989.05 were the Minimum Relief Mandated 4/23/84 by the Eleventh Circuit Court of Appeals.)

Note: This does not include §§ 1981 & 1983 Causes of Actions nor does it include "Make Whole" provisions concerning commuting expenses for 12 years which would not had occurred had it not been for Most Intentional Racial Discrimination.

Appendix G Proofs, Telephone Calls, Check Copies, Original Action Filed January 28, 1977 Birmingham Bar Association Letter and Notarized Letter from Sam Harris

GORDON, SILBERMAN, WIGGINS & CHILDS

RELEASE OF SETTLEMENT CHECK TO ALFONZA DARNELL
RE: Darnell v. City of Jasper, Alabama

This is to certify that a check in the amount of Forty Thousand One Hundred Forty-nine Dollars and fifteen cents ($40,149.15) has been given to Alfonza Darnell in settlement of the above referenced case.

WITNESS: C.M. QUINN ALFONZA DARNELL
DATE: 1/20/86

I wrote this before I signed above. I am accepting this check 1/20/86 under protest that I am due $44,149.15 as told to me by the Judge's Law Clerk and the City of Jasper Mayor. I am to receive money for depositions and/or other expenses paid by me. (The exact figures are not known but I think that I gave my attorneys while they represented me approximately $900.00.)

WIGGINS & QUINN
Attorneys at Law

September 15, 1982

Mr. Alfonso Darnell

Dear Mr. Darnell:

I stated to you in my letter of August 26, 1982 that I had paid a filing fee which amounted to Seventy ($70.00) Dollars and I would appreciate your reimbursing me this amount immediately. I also explained to you in my letter that an estimate of Six Hundred ($600.00) Dollars would be incurred for this transcript.

Very truly yours,
Michael Quinn

Remitter Alfonza Darnell, Sept. 11, 1981 Pay to the order of Attorney Michael Quinn $200.00, Walker County Bank Cashier's Check # 70871 Bank # 50280125

South Central Bell and A T & T Telephone Calls

Attorneys Wiggins & Quinn

1. I talked a total of 518 minutes by telephone within a 40 mile radius of Jasper, Alabama between 11/25/85 & 1/25/86. Birmingham the hometown of my attorneys and others I talked to concerning my case is included in this 40 mile radius. Because of the economy of those calls, the telephone company do not keep records on where you placed each call nor the time or date.
2. 1/6/86 8:24 AM 37 minutes **(205) 328-0640**
3. 1/8/86 8:28 AM 2 " "
4. 1/16/86 11:00 AM 4 " "
5. 1/20/86 8:11 AM 2 " "

Clerk of the Court, Huntsville (205)534-6495

1. 12/27/85 3:32 PM 1 minute(s)
2. 1/02/86 4:15 PM 5 "
3. 1/02/86 4:26 PM 6 "
4. 1/09/86 2:00 PM 14 "

Judge Haltom's female law-clerk (205) 533-9490

1. 12/23/85 4:55 PM 20 minutes
2. 1/02/86 4:20 PM 5 "
3. 1/02/86 4:25 PM 1 "
4. 1/09/86 1:59 PM 1 "
5. 1/09/86 4:22 PM 1 "
6. 1/15/86 4:14 PM 21 "
7. 1/16/86 10:49 AM 1 "
8. 1/17/86 1:18 PM 2 "

Court of Appeals, Atlanta (404) 221-6187

1. 01/07/86 7:42 AM 9 minutes
2. 01/07/86 7:51 AM 16 "
3. 01/14/86 1:59 PM 21 "
4. 01/16/86 10:25 AM 23 "
5. 01/24/86 1:13 PM 6 "

David Odom (205) 883-8931

1. 01/27/85 9:33 PM 7 minutes

Birmingham Federal Courthouse
Judge Clemons Law Clerk 731-0525
Clerk's Offices: 731-1785; 731-1709; 731-1701
1. Many times by 40 mile Calling Radius
2. 01/09/86 10:12 AM 7 minute(s) 731-1709
3. 01/09/86 10:20 AM 9 " 731-1785
4. 01/09/86 11:14 AM 2 " 731-1785
5. 01/16/86 9:51 AM 14 " 731-0525
6. 01/17/86 9:20 AM 4 " 731-1701

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

FILED IN CLERK'S OFFICE
NORTHERN DISTRICT OF ALABAMA
JAN 28, 1977

ALFONSO DARNELL, on behalf of himself and others similarly situated,
Plaintiff,

vs.

THE CITY OF JASPER, ALABAMA, a municipal corporation; LEE O. Murray, in his capacity as Chief of Police of Jasper
Defendants.

CIVIL ACTION NUMBER
CV 77 M 0 1 2 5 J

JURISDICTION

1. This action is brought to enjoin violations by the defendants of rights guaranteed by the Fourteenth Amendment to the United States Constitution, 42 U.S.C. Section 1981, providing for equal rights of all persons within the jurisdiction of the United States, and 42 U.S.C. Section 1983, prohibiting deprivation under color of state law, regulation or municipal ordinance of rights, privileges and immunities secured by the Constitution and laws of the United States and 42 U.S.C. § 2000-e, providing for the equal employment opportunities of all citizens of the United States. The jurisdiction of this Court is involved pursuant to 28 U.S.C. Section 1343 (3) and (4), to secure the above-specified rights. This Court also has jurisdiction of this case pursuant to 28 U.S.C. Section 1331. This is also an action for a declaratory judgment pursuant to 28 U.S.C. Sections 2201, 2202.

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CONSTITUTIONAL PROVISIONS INVOLVED

Amendment 1 Freedom of Religion, Speech, and the Press; Rights of Assembly and Petition.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to, assemble, and to petition the government for a redress of grievances.

Amendment 6 Rights to a Fair Trial Construed By Amendment 9

Finally, an (victimized) person must have a lawyer to defend him if he wants one.

Amendment 7 Rights in Civil Cases.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States , than according to the rules of the common law.

Amendment 9 Rights Retained by the People

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Some people feared that the listing of some rights in the Bill of Rights would be interpreted to mean that other rights not listed were not protected. This amendment was adopted to prevent such an interpretation.

Amendment 14 Civil Rights Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The principal purpose of this amendment was to make former slaves citizens of both the United States and the state in which they lived. The amendment also forbids the states to deny equal rights to any person.

STATUTORY PROVISIONS INVOLVED

§ 1981.

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia .

§ 1985. Conspiracy to interfere with civil rights

(1) **Preventing officer from performing duty.** If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induct by like means any officer of the United States to leave any State, district or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) **Obstructing justice; intimidating party, witness, or juror.** If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, an truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) **Depriving persons of rights or privileges.** If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice - President, or as a member

of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and excercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages; occasioned by such injury or deprivation, against any one or more of the conspirators.

§ 1986. Action for neglect to prevent conspiracy

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section [42 USCS §1985], are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action, and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefore, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

1988. Proceedings in vindication of civil rights

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of Title "CIVIL RIGHTS" and of Title "CRIMES" for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State

wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes [42 USCS §§ 1981-1983, 1985, 1986] title IX of Public Law 92-318 [20 USCS §§ 1681 et seq.], or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code [26 USCS §§ 1 et seq.], or title VI of the Civil Rights Act of 1964 [42 USCS §§ 2000d et seq.], the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

CODE OF PROFESSIONAL RESPONSIBILITY

Canon 1 Rules Governing the Conduct of Lawyers in Alabama

A Lawyer Should Conduct Himself at All Times, Both Personally and Professionally, in Accordance with the Highest Standards of Honesty and Integrity and Should Cooperate with the State and Local Bar Associations in Maintaining Such Standards.

Ethical Considerations = EC

EC 1-4 The integrity of the profession can be maintained only if conduct of lawyers in violation of the Disciplinary Rules is brought to the attention of the proper officials.

Disciplinary Rules = DR

DR 1-101 Maintaining Integrity and Competence of the Legal Profession

DR 1-102 Misconduct

(A) A lawyer shall not;

(1) Violate a Disciplinary Rule,

(4) Engage in illegal conduct involving dishonesty, fraud, deceit, or misrepresentation, nor be guilty of willful misconduct.

(5) Engage in conduct that is prejudicial to the administration of justice.

Canon 6 A Lawyer Should Represent a Client Competently.

DR 6-101 Failing to Act Competently.

(A) A lawyer shall not willfully neglect a legal matter entrusted to him.

Canon 7 A Lawyer Should Represent a Client Zealousy Within the Bounds of the Law.

DR 7-101 Representing a Client Zealousy

(A) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of his client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101 (B).

(3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 7-102 (B).

DR 7-102 Representing a Client Within the Bounds of the Law.

(A) In his representation of a client, a lawyer shall not:

(3) Conceal or knowingly fail to disclose that which he is required by law to reveal;

(4) Knowingly use perjured testimony or false evidence;

(5) knowingly make a false statement of law or fact;

(6) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false;

(7) Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent;

(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule;

Canon 8 A Lawyer Should Assist in Improving the Legal System.

EC 8-5 Fraudulent, deceptive, or otherwise illegal conduct by a participant in a proceeding before a tribunal or legislative body is inconsistent with fair administration

of justice, and it should never be participated in or condoned by lawyers.

Canon 9 A Lawyer Should Avoid Even the Appearance of Professional Impropriety.

EC 9-1 Continuation of the American concept that we are to be governed by rules of law requires that the people have faith that justice can be obtained through our legal system. A lawyer should promote public confidence in our system and in the legal profession.

EC 9-2 (part) Public confidence in law and lawyers may be eroded by irresponsible or improper conduct of a lawyer.

DR 9-101 Avoiding Even the Appearance of Impropriety.
(c) A lawyer shall not state or imply that he is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

DR 9-102 Preserving Identity of Funds and Property of a Client.
(B) A Lawyer shall:
(1) Promptly notify a client of the receipt of his funds, securities, or other properties;
(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them;

PART I. CODE OF JUDICIAL CONDUCT FOR UNITED STATES JUDGES

Canon 1 A Judge Should Uphold the Integrity And Independence of the Judiciary.

An Independent and Honorable Judiciary is Indispensable to JUSTICE in Our Society. A Judge should participate in Establishing, Maintaining, and Enforcing, and should HIMSELF OBSERVE High Standards of Conduct so that the INTEGRITY and INDEPENDENCE of the JUDICIARY may be Preserved. The provisions of this Code should be Construed and Applied to further that Objective.

Canon 2 A Judge Should Avoid Impropriety And The Appearance of Impropriety In All His Activities.

(A) A Judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the Integrity and Impartiality of the Judiciary.

Commentary:

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. He must expect to be the subject of constant public scrutiny. He must therefore accept restrictions on his conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

Canon 3 A Judge Should Perform The Duties Of His Office Impartially and Diligently.

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply;

A. Adjudicative Responsibilities

(1) A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before him.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

Commentary: The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

(4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and except as authorized by law, Neither Initiate nor Consider Ex-Parte or other communications concerning a pending or impending proceeding.

(5) A judge should dispose promptly of the business of the court.

Commentary: Prompt disposition of the court's business requires a judge to devote adequate time to his duties to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with him to that end.

B. Administrative Responsibilities

(2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.

(3) A judge should take or initiate appropriate disciplinary measures against a JUDGE or LAWYER for Unprofessional Conduct of which the judge may become aware.

Commentary: Appointees of the judge include officials such as referrees, commissioners, special masters, receivers guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this subsection.

C. Disqualification

(l) A judge shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where: (a) He has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

LEGAL EXCERPTS INVOLVED ATTORNEYS AT LAW / FRAUD & DECEIT ATTORNEY AT LAW 7AM JUR 2D

§ . **Duties of office.**

The trust and confidence necessarily reposed in an attorney by clients require in the attorney a high standard and appreciation of his duty to his clients, his profession, the courts, and the public. (footnote 26) *People ex rel Chicago Bar Assn'n v Baker*, 3ll Ill 66, l42 N E 554, 3l A.L.R. 737

Nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty, and integrity of the profession. *Lyons v Hall* (la App) 90 So 2d 519, 60 A.L.R. 2d 1003 Pg 1004. Above all, an attorney must exhibit good faith and honorable dealing with the court.

In most jurisdictions the Code of Professional Responsibility is by court rule or statue, established as the standard by which the conduct of an attorney is to be measured.

§ 48 Failure to act honestly and in good faith.

It is unprofessional for an attorney to act toward a client otherwise than with the utmost good faith; therefore, any advice given by an attorney which he does not believe to be correct, affecting his client injuriously justifies disbarment or disciplining.

Unauthorized settlement of a client's cause is a breach of an attorney's ethical duty which will subject him to disciplinary action. 92 A.L.R. 3d 275.

§ 53 Failure to communicate with client.

An attorney has an obligation to communicate with his client, and a failure to discharge this duty is a proper ground for disciplinary action. It is the duty of the attorney to inform his clients of relevant considerations and factors in the decision-making process and of their rights and interests in the subject matter, and to give his clients the opportunity to make decisions, and failure to do so renders the lawyer subject to disciplinary action.

A lawyer must promptly notify his client of the receipt of funds, securities or other properties of the client, and in a number of cases an attorney's failure to report promptly receipt of money or property belonging to his client has been held as a ground for the imposition of disciplinary action, usually in association with other misconduct on the part of the attorney.

§ 120 Attorney's duties to client.

An attorney must faithfully, honestly, and consistently represent the interest and protect the rights of his client. He is bound to discharge his duties to his client with the strictest fidelity, to observe the highest and utmost good faith toward him, and to inform his client promptly of any known information important to him.

An attorney's breach of fidelity to a client's interest constitutes constructive fraud, *Gardine v Cottey 18 A.L.R. 2d 1100.*

§ 135 Effect of client's ratification of, or estoppel to deny, attorney's acts; laches.

A client will not be held liable on an unauthorized contract made by his attorney if the contract is repudiated within a reasonable time after the client learns of it, provided all fruits of the contract received by the client are restored to the other party. Whether a client has ratified the acts of his attorney or has been guilty of laches that precludes him from disclaiming is usually a question of fact to be determined under all the circumstances of the case.

§ 150 Stipulations.

In the absence of special authority, a stipulation that operates as a surrender of substantial rights of a client will not be upheld by the courts.

§ 156 Compromise or settlement of cause.

See "Acts of Judge Haltom" #5. Begin at the second sentence.

§ 158 Confession of Judgement.

Although some cases have held that the control an attorney has over the conduct of a case impliedly authorizes him to bind his client by a confession of or consent to a judgement, other decisions maintain the view that an attorney has no authority to enter a consent decree, or confess judgement without the client's direction, knowledge, or consent, and if a consent judgement or decree is entered against the protest of the client, or contrary to his instructions not to compromise, the judgement or decree will not be binding on him. **In any event, a consent judgement entered through fraud will not be upheld.** *Adkins v Bryant,* 133 GA465, 66 SE 21.

FRAUD AND DECEIT 37 AM JUR 2D

§ 1 A definition of good faith. "An honest intention to abstain from taking any unconscientious advantage of another, even though the forms and technicalities of law, together with an absence of all

information or benefit of facts which would render the transaction unconscientious." Bad faith is, of course, the antithesis. Although it is an indefinite term, it differs from, and is stronger than, the idea of negligence in that it contemplates a state of mind affirmatively operating with a furtive design, with some motive of self-interest or ill will, or for an ulterior purpose. There seems to be but little difference between bad faith and fraud in this particular relation. Fraud may be said to be an action of a more affirmative evil nature, such as proceeding or acting dishonestly, intentionally, and deliberately, with a wicked motive, to cheat or deceive one party to a transaction with respect to the situation or operations or such as an action which results to his damage or loss and to the advantage or gain of the other party.

§ 2 Fraud and deceit Bad faith has been held to be the test of fraud. *Gomillion v. Forsythe 53 A.L.R. 2d 169.*

§ 12 Generally; actionable fraud. The law requires good faith in every business transaction, and does not allow one intentionally to deceive another by false representations or concealments, and if he does so, it will require him to make good such representation. Generally to constitute fraud there must be moral turpitude on the part of the person so charged.

The ground of the tort action based upon fraud - the action of deceit - is fraud and damage and when both concur the action will lie.

The essential elements required to sustain an action for deceit are, generally speaking, that a representation was made as a statement of fact, which was untrue and known to be untrue by the party making it, or else recklessly made; that it was made with intent to deceive and for the purpose of inducing the other party to act upon it; and that he did in fact rely on it and was induced thereby to act to his injury or damage. The representation must have been made to him either directly or indirectly, and must have been of such a nature that it was reasonably calculated to deceive him and to induce him to do that which otherwise he would not have done.

§ 144 Concealment. Unquestionably, the concealment of material facts that one is, under the circumstances, bound to disclose may constitute actionable fraud.

§ 434 Intent and Knowledge. Intent to deceive is regarded generally as an essential element of actionable fraud, and it is the rule that fraudulent intent must be alleged in all cases where it is a material ingredient of the fraud relied on by the pleader.

In an action for deceit it is proper to allege facts showing knowledge on the part of the defendant that his representations were false.

§ 440 Unfairness of transaction; inadequacy of consideration. Gross inadequacy of consideration has been declared to constitute a badge of fraud.

§ 461 Intent and knowledge. Any eivdence bearing on the defendants knowledge of the falsity of the representations is admissable in an action of deceit.

THE UNTOLD STORY - AUTOBIOGRAPHY

7th Grade

Joined School Safety Patrol; Basketball Team

8th Grade

Same

9th Grade

Assistant Chief of Safety Patrol; Basketball Team; Flu twice recovered; Track and Field; Coach would not let me on Basketball tournament team, he was wrong; Summer I practice, practice, practice.

10th Grade

Chief of Safety Patrol; I participated in Track and Field; I was the only Sophomore on the Varsity Basketball Team; During the Summer, I played with the City's Baseball team, the Jasper Jets; I was 16 when I played first base against the Birmingham Black Barons.

11th Grade

Basketball, Track and Field; Baseball--Our basketball trips were taken on the Athletic Bus and it was the Oldest Bus in the County and was in ill repair and heated by a Kerosene Heater in the aisle on the bus. If you were not next to the Heater you couldn't tell it was on;

12th Grade

Captain Varsity Basketball; Biggest fete in our District Tournament. Our team whipped the team favorite to win District Tournament. This team was Greene County. Their captain became Auburn's first Black Basketball Captain. I played him man to man and he scored 14 points. I scored 28 points - he didn't play me man to man on our Offense.

I had the lead role in my Class Play. I was voted most likely to succeed by my Class. I lead a successful integration of the Jasper Bowling Center (two at a time, two more in addition to first two...for about four weeks - then I gave the word to tell all the people they could now BOWL in Jasper rather than drive 40 miles to Birmingham.

11. Safety Patrol traditionally got in the first movie on Saturdays for their services, got in all ball games free for setting up for the game and cleaning up afterwards, rain, shine, sleet or snow, the Safety Patrol held flags at the Highway Crossing to promote Safety. One day we wrote a tag number of a car which had run a Red Light and through our flag. I gave this to the Chief of Police which I had communicated regularly and directly with since I became Assistant Chief of Safety Patrol in the 9th grade. He apparently awarded this person a ticket. I was called to the Principal's Office and was told not to write anymore. Thenceforth, no more free movies on Saturdays, two or three people besides me go in Athletic Events - we had to set up before and clean-up afterwards. This is how Honesty pays in our System in Jasper - You may not discipline certain people regardless of what they did. With all of this happening, I didn't get Dishearted just stronger because I knew College was my best move and besides I thought I along with the law on my side could change the Struggle of Black Americans especially while becoming a MAN. To my surprise, 98% of the Whites in Jasper I thought was liberal was RACISTS or PLAIN SCARED - WHY? I wished. In High School the Principal forgot or neglected to send my high school transcript to Alabama A & M University. Therefore, I got my own transcript and sent it to Tuskegee Institute. The deadline date was August 15, 1966 - I sent my application and transcript August 14, 1966, and August 22, 1966, I received my acceptance cards from Tuskegee Institute, a scholarship I didn't apply for plus 15 hours a week work-study program. I received grants each year wherein all of this coupled together paid all my colllege expenses.

For recreation I played basketball, pinochle, pool, went to athletic events and to social events, watched tv. My senior year, I joined the varsity Golf Team. My cumulative average was 2.1 after my first two years. I graduated with a cumulative 2.7 Grade Point Average. I

attended no summer school, changed my Major once and still got out in four (4) years. I found out after my first semester that one must study and fill out his own class cards to his own advantage or else suffer from the nonchalant attitude of a counselor.

Upon graduation, I went to work for General Electric Heavy Military Electronics Department. To get this job my friends and family and I went through security checks. I ascertained a Security Clearance marked Secret. I was recruited for the Financial Management Program. It was G.E.'s best Management Program which groomed mainly those graduates to become their Corporate Leaders. In December, 1970, I went to a team of doctos and had a GI Series Test done on me. I was told by Dr. Sipple, "Son you don't have an ulcer or anything yet, but if you continue, you will". I said, "Doctor, What can I do to get better?" Dr. Sipple said, "Son, do what it takes to make you happy". After that, I knew beyond any doubt I was going home. I was trying to keep up with Accounting Majors from Ivy League Schools and I only had 17 hours of Accounting wherein one of my instructors were lacking in his knowledge and ability to teach. Other problems in Syracuse, NY, was that I was lonesome, without girlfriend, had to play cook, grocery shopper, housekeeper, launderer, and a student, besides work 40 hours a week.

Now at home in Alabama around May, 1971, began job hunting. I tried Alabama Power in Jasper, Gorgas and Birmingham. I tried the County and City School Systems - I was told by Superintendant Cunningham, "We don't want you in the school system." I still wonder who was the real WE or HE calling the shots. That is most certainly one of the reasons shy I was willing to SACRIFICE time with Jasper Police Department This fete was expected to be most obdurate let alone the Danger but most of us with any solid Educational Background could summarize that you MUST be in a Particular Position to see WHO calls the shots or bosses the City which you live. I tried the Post Office, Alabama State Unemployment Office, Community Action Agency. I was told if I wrote a Program and got funded by the government still didn't mean that I would be the Director for that Program. Since I was not mature enough to handle birthing a Program and then Educating someone else most likely a white person about how and why it was Origin for him to be my boss besides the Deputy Director and Director of Community Action Agency so I did not write any Programs. I tried ABC Mining Companies and they were to hire over 2,000 Coal Miners from 1971-1973. I missed out on all 2,000 plus jobs, and the Jasper Police Department.

Since I couldn't get hired I thought of how to start my own Company. So I got some Small Business Administration Forms and

filled them out entirely except for a place a lawyer had to sign (I explained to a lawyer what and how I had done at the Court House so he signed it.) The SBA first refused to give me a loan but I knew that they were known for their Discrimination against Blacks and I knew that my plans were technically sound so I wrote a letter to the Director stating that if I had to I would file formal charges against SBA for various reasons. A short while later the loan was approved by SBA and I began Logging Company. I went out of the business June, 1973. My thoughts of me being Black-Balled or Listed ws confirmed by a Coal Contractor and Coal Operations Owner. During this time I could have purchased literally hundreds of acres of timber for the Stumpage Cost.

(Example--You own timber - So you let a logger cut and market it for 2/3 of the money yielded but they retain ownership of their property.) But as I mentioned I could have owned land, timber and all for what I would have paid stumpage for 1/3 of yield. Understand Please, these were the Land Owner Prices. I would not offer a person a price that low and be able to live with myself. With A-1 credit ratings and the proper Modern Equipment to log with the Banks would not loan me money unless I told them exactly the location of the land and the owners. I refused to do that but asked them to give me a written commitment to make the loans contingent upon my proving what I stated to them was correct - Bankers refused to do that, knowing that they had ABSOLUTELY NOTHING TO LOSE.

September, 1973, I got a job with Alabama A & M University as Assistant Head Resident (Dormitory) for Freshmen. I was told to wait 2-3 years before trying to get my Masters Degree - that was ridiculous since I was to be on Campus 24 hours every other day, 8 hours each week-day and off every other week-end. Therefore, after one school term I opted not to return. The big difference at Tuskegee was that the Assistant Head Residents was expected to work on their Masters Degree, graduate and make room for someone else to get assistance in furthering their education. (9/73-5/74) August, 1974, went to work for Birmingham Post Office as 89 day Temporary Job, Clerk-Carrier. I stayed there 60 days before I was offered a job at Bessie Coal Mine, a Jim Walter Resources, Inc., Company 10/25/74. It happened so fast I didn't formally tell personnel that I had taken another job but I did tell my Immediate Tour Supervisor that I had taken a mining job. In the early 80's I qualified for Post Office Job again and was called by the Jasper Post Office but they refused to hire me - (They did similar to the Jasper Police Department.) They said I abandoned my job and was not good at anything I did (Imagine the duties - sorting mail and placing mail in boxes throwing mail and unloading trucks. They never knew I had almost learned the Alabama

Scheme but to make things short - those reasons for not hiring was as much a lie as me plotting to kill Policemen and Bootlegging some of the reasons the Jasper Police Department refused to hire me. I wrote to Washington they said in the Postal Services after four (4) years everyone is given a new clean slate but the only blemish was not formally notifying Personnel that I had gotten another job, at least I told my Immediate Supervisor. When I looked into this matter after Jasper Post Office refused to hire me - No Supervisor I had worked for in Birmingham could be located by Personnel nor their Equal Employment Officer, his name was Walker.

On October 25, 1974, I began working in the mines. I had been continously Discriminated against since my hiring. To get a job I did go to the Back Door of the Doctor's Office, it worked, I was hired. Months later I was hurt on the job - I refused to go to the back door to the Doctor's Office and every since the Company gave me the worst jobs to do.

One main example of just how far they have gone to Discriminate against me - According to Federal Records after 12 years in Underground Coal Mine the government have no record of me ever having a DUST SAMPLE made. The truth is that I was in so much Dust that no sample would pass the maximum Dust allowed by MSHA (Mine, Safety and Health Administration). Therefore, Jim Walter Resources, Inc., Bessie Mines told MSHA I didn't come to work enough so reported Don Mize of MSHA. But, the Real Truth was that I wouldn't hang my Dust Pump in the Lunch Hole as did most Coal Miners at BESSIE COAL MINE, Graysville, Alabama, to get an Acceptable Coal Dust Sample for MSHA's record on each Coal Miner. Until this 26th day of March, 1987, nothing has been done about this. Close your eyes and you should be able to imagine how many other Discriminatory Acts committed against me by Jim Walter Resources, Inc., from 10/25/74 - 1/21/86 when I became the first person ever to be Fired with days to take with Pay. Their Silence was a Cold Blooded Ambush to my Employment.